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LIEUT.-GOVERNOR OF BENGAL

FOR THE PURPOSE OF

MAKING LAWS AND REGULATIONS.

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FOR THE PURPOSE OF

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S. M. W.—Reg. No. 6350J—300—14-2-98.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met at the Council Chamber on Saturday, the 2nd January, 1897.

Present:

The Hon'ble SIR ALEXANDER MACKENZIE, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble SIR CHARLES PAUL, K.C.I.E., *Advocate-General*.

The Hon'ble H. H. RISLEY, C.I.E.

The Hon'ble RAI DURGA GATI BANERJEA BAHADUR, C.I.E.

The Hon'ble NAWAB SYUD AMEER HOSSEIN, C.I.E.

The Hon'ble C. E. BUCKLAND, C.I.E.

The Hon'ble M. FINUCANE.

The Hon'ble C. W. BOLTON.

The Hon'ble W. H. GRIMLEY.

The Hon'ble J. G. H. GLASS, C.I.E.

The Hon'ble C. A. WILKINS.

The Hon'ble MAULVI MUHAMMAD YUSUF KHAN BAHADUR.

The Hon'ble SURENDRANATH BANERJEE.

The Hon'ble A. M. BOSE.

The Hon'ble RAI ESHAN CHUNDRA MITTRA BAHADUR.

The Hon'ble GURU PROSHAD SEN.

The Hon'ble MAHARAJA BAHADUR SIR RAVANESHWAR PROSHAD SINGH, K.C.I.E., of Gidhaur.

The Hon'ble W. B. GLADSTONE.

The Hon'ble A. H. WALLIS.

NEW YEAR GREETING.

The Hon'ble THE PRESIDENT, on taking his seat, wished the Members of Council a very happy and prosperous New Year.

[*Babu Surendranath Banerjee*; *Mr. Bolton.*]

MR. LEA'S CASE.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Whether the attention of the Government has been called to the case of one Mr. Lea, who was recently charged with having caused the death of a coolie, and, on being convicted of simple hurt, was fined fifty rupees? Is it true that in this case when the Head-Constable went to arrest Mr. Lea he was censured for so doing? Further, is it true that in the Lower Court, the prosecution was left to be conducted by an European Inspector of Police, and that notwithstanding the gravity of the case, the accused being charged with having caused the death of a coolie, the services of the Government Pleader or any other qualified lawyer were not engaged to conduct the prosecution? Whether it is not usual in a case of this nature to employ the Government Pleader or some duly qualified lawyer to conduct the prosecution? If so, will the Government be pleased to state why the practice was not followed in this case?

The Hon'ble MR. BOLTON replied :—

"A report has been received by the Government on the case referred to. In connection with the death of a gate-man on the East Indian Railway line, Mr. Lee, a Railway subordinate, was committed to the Sessions Court at Bhagalpur by the Subdivisional Officer of Pakour on a charge of having voluntarily caused grievous hurt under section 325, Indian Penal Code. He was tried before a Jury consisting of three European and two native gentlemen, the prosecution being conducted by the senior and the junior Government Pleader, and the defence by Counsel, and was found guilty, by the unanimous verdict of the Jury, of an offence under section 334, Indian Penal Code, that is, of voluntarily causing hurt on grave and sudden provocation, for which the maximum term of imprisonment is one month, and the maximum fine Rs. 500.

"No Head-Constable went to arrest Mr. Lee, but fault was found with a Head-Constable for having sent in a final report before the police investigation was completed.

"The European Inspector of Police in charge of the case assisted in the prosecution before the Magistrate in the usual way. It is not the practice in

the Sonthal Parganas to employ the Government Pleader in the lower courts, and in the present instance the services of a lawyer were not necessary.

"It rests with the District Officers to consider whether the Government Pleader should be employed in any criminal case. He is not retained in cases of a simple nature."

THE PREVAILING FAMINE.

The Hon'ble BABU GURU PROSHAD SEN asked—

I. Will the Government be pleased to state what is the amount of cash wage per day now paid to the famine stricken men in places where relief works have already commenced? At what price are rice and other food-grains selling in the local markets in those places?

II. Are there any other kind of works than digging earth in which any class of famine stricken men are being employed? Has the Government taken into consideration whether this is not possible, specially for the relief of such classes who cannot and will not dig earth?

III. Is any kind of gratuitous relief being given to people who cannot work in those places where relief works have been ordered to be opened?

IV. Why does Government look with disfavour on the system of relief adopted by some of the relief centres opened by private individuals, under which the poor people of the locality get for their money (only in small quantities for half or a quarter rupee at a time) a seer or two more in the relief depôts than they would get in the local markets? If any such relief depôts are found on enquiry to be working well, and under respectable volunteer agencies, will the Government be pleased to come in with grants-in-aid to extend the scope of their operation?

V. Has the Government information before it of the severe distress that is now being felt in parts of the Dacca, Backergunge and Krishnagar districts, in the Satkhira subdivision of the district of Khulna, as also in a great portion of the South Gangetic districts of Bihar? Will it please Government to make enquiries and to extend reliefs in those places?

[*Mr. Finucane.*]

The Hon'ble MR. FINUCANE replied:—

Answer to Question No. I:—

"The principles on which wages are regulated are those laid down in sections 98 to 106 of the Famine Code. The amount of the wage has, so far as known to Government, been given in the reports published in the Gazette. It is not possible to give details of prices and wages on every relief work started throughout the province, but ample information on the subject has been given in the published reports."

Answer to Question No. II:—

"Earthwork is the only kind of work on which famine labourers are now employed. Relief to persons of the respectable classes will be afforded by employing them as overseers of labour gangs and as muharrirs or clerks on the works. Relief to artizans may, when necessary, be afforded in the manner prescribed in sections 142, 143 and 144 of the Famine Code."

Answer to Question No. III:—

"Gratuitous relief is being given as provided for in the Famine Code."

Answer to Question No. IV:—

"Government does not view with disfavour the system of relief referred to in the question if given spontaneously by private persons, but does not view with favour the interference of Government officers in the system, as it tends to undersell private traders, and so to interfere with trade. Government does not propose to give grants-in-aid to the system."

Answer to Question No. V:—

"Government has no information showing that there is any distress in Dacca or Backergunge. There is distress in Satkhira, and in parts of Nadia, and measures have been taken to meet it. There is not distress in a great portion of the South Gangetic districts of Bihar. In parts of the Bhabua sub-division there is some distress, and measures have been taken to relieve it.

"If the Hon'ble Member would read the papers published in the Gazette, and study the Famine Code, he would have all the information he can possibly require as to existing facts and the methods of meeting distress."

[*Mr. Finucane.*]

ESTATE'S PARTITION BILL.

The Hon'ble Mr. Finucane moved that the Bill to amend the law relating to the Partition of Estates be referred to a Select Committee consisting of the Hon'ble Rai Durga Gati Banerjea, Bahadur, the Hon'ble Mr. Bolton, the Hon'ble Mr. Grimley, the Hon'ble Mr Wilkins, the Hon'ble Maulvi Muhammad Yusuf Khan Bahadur, the Hon'ble Babu Guru Proshad Sen, and the Mover. He said:—

"When moving that this Bill be read in Council, I endeavoured to explain its objects and reasons and the principles underlying it, and I hope I need not now repeat what I said on that occasion. It was then explained that the primary object of the Bill was to shorten, simplify, and cheapen the procedure for effecting partitions of estates. I conceive that there can be no difference of opinion as to desirability of attaining that object, and, therefore that there can be no question as to the soundness of the cardinal principle of the Bill. At the present stage we are, under the Rules under which the proceedings of the Council are conducted, precluded from entering into a discussion of the details by which it is proposed to give effect to this principle. On some of those details there may be difference of opinion, and especially perhaps on the point whether the provisions of Chapter V, regarding the method of carrying out a survey, which is required under the present law, as well as under the Bill, for the purpose of ascertaining the assets, are the best that can be devised with a view to shorten, and cheapen, and simplify the procedure. Important criticisms have been received on that Chapter, and important changes and improvements will no doubt be made in it by the Select Committee, but this is not the occasion to discuss these changes, nor is it for me to anticipate what the judgment of the Select Committee may be. I may, however, say that Government will offer no objection to some important modifications in the Chapter as drafted.

"A secondary object of the Bill is, it will be remembered, to impose a higher limit than is now imposed on the partibility of revenue. When introducing the Bill, I stated that the limit of Rs. 100 would possibly be found to be too high. Since that time numerous and valuable opinions have been received on the Bill, and they have been circulated among Hon'ble Members. It will have been observed that the great preponderance of opinion of revenue officers is in favour of the view that a limit

of Rs. 100 is not too high, but that the Hon'ble Judges of the High Court, while thinking that a higher limit than that now in force ought to be imposed, still think that the proposed limit of Rs. 100 is too high. The Bihar Planters' Association are of the same opinion.

"Some of the other public bodies and associations are opposed to the introduction of any limit other than that imposed by the law as it stands. These opinions are entitled to great weight, and, in deference to them, no objection will be made to a reduction of the limit proposed in the Bill. What the precise amount of that reduction should be is again a matter of detail on which it is for the Select Committee to suggest a conclusion and for the Council to settle at a subsequent stage of the proceedings."

The Hon'ble BABU SURENDRANATH BANERJEE said :—"I quite accept the view which has been put forward by the Hon'ble Member in charge of the Bill that on a motion being made to refer a Bill to a Select Committee, we are entitled only to consider the questions of principle involved in the Bill and criticise matters of detail only so far as they involve considerations of principle. The Hon'ble Mover has referred to two matters which involve important questions of principle. One of these is the provision of the the Bill by which it is proposed to raise the qualification subject to which estates may claim partition from the present limit of Re. 1 to Rs. 100. If this part of the Bill is not modified, and considerably modified, the effect of the measure will be to preclude a large number of estates from availing themselves of the beneficent provisions of the Partition Law. In this connection I desire to call attention to the papers before the Council It is remarkable that the Bihar Planters' Association, which entirely accept the Bill in all its provisions, take exception to this part, and this part only, of the Bill. 'The only section,' writes the Secretary to the Bihar Planters' Association,' 'to which I would draw attention is section 10A of Chapter II. This, I believe, would operate so as to prevent all partitions, except in isolated cases, and it might be advisable to lower the limit of Rs. 100.' I will not take up the time of the Council by referring to many of the opinions which have been received on this point, but there are two or three which are of great importance. We have a weighty expression of opinion from the Secretary to the Chittagong Landholders' Association, from which it appears that if this provision of the Bill is to be accepted, the Partition Act

might as well not exist, so far as the Chittagong Division is concerned. In the second paragraph of his communication he says:—'In this district the revenue roll of the Collectorate consists mainly of numerous petty estates whose revenues do not exceed Rs. 10, not to speak of Rs. 100. The Bill, therefore, in restricting the partibility of estates to the amount of Rs. 100, has practically made the proposed Act a dead-letter in its application to this district.'

"I come next to another important expression of opinion from the East Bengal Landholders' Association. In paragraph 8 the Secretary to that Association says:—'For these and other reasons it is clear that if the minimum limit of Government revenue in a separate estate is raised to over Rs. 100 (as proposed by section 10), partition of estates in many districts will be entirely put a stop to. This will be great hardship on the zamindars for no fault of their own.' Passing on from non-official to official opinion, we find a striking unanimity pointing to the same conclusion The Director of Land Records and Agriculture (Mr. Lyon) says:—'Seeing that the main object of most proprietors in applying for partition now-a-days is not to obtain an adjustment of the revenue demand, but to obtain a separate share of their estate, it would perhaps be better to permit the partition of estates to an almost unlimited extent.' The Board of Revenue, the highest authority on such matters, is in favour of reducing the minimum. I am quite sure these expressions of opinion will be considered with the attention which they deserve, and I shall rejoice if the Select Committee see their way to revert to the existing law in this particular. For my own part I do not see any justification for the minimum limit that is now proposed. No doubt the law as it now stands is a source of considerable trouble and labour to executive officers, but that is nothing compared to the hardship to those who will be affected by the provisions of this Bill, and will be virtually denied the right of partition. Before I conclude, I wish to say one word with reference to the provision in the Bill regarding the necessity for a cadastral survey in certain cases—a matter which involves an important question of principle. Under this Bill, unless an estate can produce full and accurate measurement papers, it will not be in a position to claim partition, except after undergoing the harrassment of a cadastral survey. This will be a difficulty in the way of many estates, and I am glad that this matter also will engage the attention of the Select Committee. I congratulate the Hon'ble Member in charge of the Bill on the statement which he has been able to make, that the Government will be

prepared to make considerable modifications in the provisions of the Bill by the light of the opinions which have been received, and I hope and trust that when this Bill emerges from the hands of the Select Committee, it will be so recast and modified as to commend itself to the approval of the Council and of the country at large."

The Hon'ble RAI ESHAN CHUNDRA MITTRA BAHADUR said:—"The Bill before the Council is one of the most important Bills that have come before us during the present Session. It is a complex Bill, and contains many details. As far as this Bill professes to cheapen, shorten and simplify the procedure, I hail it with pleasure, but there are certain principles involved in the Bill which will require consideration at the hands of the Council; as, for instance, the provision contained in section 10, which raises a very important question. This section 10 limits the benefits of partition to estates, the annual revenue of which would not, after partition, be less than Rs. 100. It is a restriction, I submit, which is both against the letter and the principle of the proclamation of 1793, the charter of the rights of the proprietors of estates. No doubt that Regulation was passed when land was not valuable, when the population was sparse; and the Legislature of 1807 thought of placing a restriction on the partition of estates, the revenue of which was less than Rs. 500; but three years after this the Legislature in its wisdom thought fit to remove that restriction, and in the preamble of Regulation V of 1810 it is stated that the apprehension, which was entertained at the time, did not exist, and that there was absolutely no necessity for that limitation. After that limitation was removed, there was a subsequent suggestion for legislation, allowing the proprietors a right of redemption of the revenue of estates which, after partition, would bear a revenue less than Rs 20. That was previous to the passing of the present law of partition, but the Government of India did not approve of that suggestion, and the proposal was not entertained. We have, lastly, the existing Act, which rather confers the privilege to zamindars of partitioning estates, if the revenue of the separate estate of the proprietor exceeds Re. 1, and I submit that the law as it was promulgated in the Regulations of the permanent settlement, stands virtually the same at the present day. There was no doubt that in 1807 it was thought necessary to enact a new law laying down a certain restriction, but that law was repealed. I take it that all statutory enactments proceed from the will of the Legislature, and that when enactments are

repealed, they are to be taken as if they had never existed. They may have a certain historical value, but the Regulation of 1807 having been repealed, the law now is the same as it stood in 1793, subject to this condition—which I take to be rather a privilege—that every proprietor of an estate, paying less than Re. 1 revenue to Government, has the right to redeem. Therefore the question arises whether there is any necessity now of introducing the proposed restriction in section 10 after a century.

"I would invite the attention of Hon'ble Members to the fact that land has immensely improved in value since 1793, and that the population is increasing by rapid strides. With the influx of British Capital and the security of property, the value of land has greatly increased, and I submit that there is no necessity of the proposed restriction being laid down. It is said that the realisation of the Government revenue is in danger, but has it been in danger during all these years? No doubt, in certain districts, the number of partition cases is greater than in others. In Lower Bengal there have been very few, but in the Darbhanga and adjacent districts the number has no doubt been great, and this was due to the prevalence of the *bhaoli* system; but I am not aware of any statement which goes to show that the Government has suffered any appreciable loss of revenue. The Government has several remedies for the realisation of its revenue, the chief of which is the Sunset Law, and even if the revenue be not realised under that law, the Government can have recourse to the certificate procedure, and realise its revenue from any other property belonging to the defaulter. Therefore the question is whether there is any necessity for this Bill? If there were any reasonable chance of the Government revenue being in danger, I would be the last person to oppose a measure of this kind being introduced, but there must be something tangible to go upon. It has been said that if this limitation is imposed, there is section 93 of the Bengal Tenancy Act to fall back upon, under which the opening of separate accounts can always be effected, but if the provision in this Bill be passed, I may be permitted to say that section 93 of the Tenancy Act will afford no protection whatever to co-sharers in an estate; for that section contemplates a state of things which does not ordinarily occur. That section provides that when any dispute exists between co-owners of estates, and other contingencies mentioned in the section occur, recourse may be had to the section.

"It contemplates the existence of disputes between the co-owners of estates before the section will apply. There must be apprehension of a riot; there

must be some public inconvenience before section 93 will give any assistance to co-sharers for the appointment of a common manager. That provision of the Tenancy Act is no new law. It is contained in the 22nd article of the Proclamation of 1793, whereby the owners of an estate are authorized to appoint a joint manager. I therefore submit, for the consideration of Hon'ble Members, whether section 93 of the Tenancy Act will afford any assistance to co-sharers if the provision of this Bill, to which I am referring, is passed.

"Then, in the opening of separate accounts the law does not contemplate the demarcation of lands; all that is recorded is the amount of each person's share, as, for instance, that *A* has a 4-anna share, *B* 6-anna, and so on; but their joint liability is in no way affected, and the proprietors or tenants get no advantage from that section. Therefore it is a question for the consideration of the Council whether the opening of separate accounts by the co-sharers of an estate will be of any advantage to themselves or to their tenants. Then it has been said that peasant proprietors are not the same as peasants and pauper landholders. Who are these pauper landholders? Is the Government a pauper landholder? For the Government holds shares in estates, and many big rajahs and zamindars also hold shares in estates, and they are not pauper landholders. I submit that if the time comes when it may be necessary for the protection of the Government revenue to prevent the growth of plurality of estates, it will come to a state of things similar to the case of raiyatwari settlements. Consider the fact that lands are every day rising in value, and that the Sunset Law exists; so that there can be no fear of the Government revenue being endangered in any way. But if the time comes when such a law will be necessary, the state of things existing under raiyatwari settlements will come into operation, and the collection expenses will increase to a certain extent. But so long as the Sunset Law is in force there is no room for any apprehension of expenses of collection being increased.

"Then it has been said that if no limitation is put to the partition of estates, the administration charges will be increased; but it should be remembered that in different parts of this Province we have a system by which the Government revenue is remitted by chalans, and if the number of such chalans is somewhat increased, the expense to Government will only increase to the extent of appointing a few additional clerks; but is that any reason why a solemn compact, entered into a century ago, should

be interfered with? I therefore submit that the collective wisdom of the Council will not consider it advisable to place any restriction upon the partition of estates. The real question seems to me to be whether there is any necessity for this provision of the law. Of course, if there is such a necessity, I would be the last person to advocate that there should be no such restriction; but if there is no necessity, if there is no danger to the public revenue at present, then the law cannot be necessary now. It appears to me that the necessity which is supposed to exist is merely theoretical.

"The advantages of partition to proprietors and tenants are manifold. At the present moment the country is suffering from a famine of water. Suppose a tenant or a co-proprietor wants to dig a tank; if the co-sharers will not give their consent, nothing can be done; but if the plot of land on which he wishes to dig a tank is his own, he can do as he likes. I therefore submit that the division of estates will not only improve the value of land, but will conduce to the advantage and convenience of the proprietors and the tenants. Suppose in an estate there are five co-sharers; the raiyat or tenant will have to go to the five different gomashtas of those co-sharers; he will have to keep separate accounts with each of them. But if a partition has been effected, the raiyat will know who his landlord is, and he will only have to keep one account. I think I am not wrong if I say that most agrarian disturbances arise from disputes between co-proprietors of estates; but if the partition of estates is allowed, these disturbances will cease, at least to a certain extent, so that the advantages of partition are manifold, and it is a question for consideration whether the Legislature should place any restrictions upon the right of partition.

"Then, again, I submit that proprietors and tenants will not be benefited by the provisions of Chapter V of this Bill, and I venture to say that this question of the record-of-rights is not one which is at all beneficial to raiyats. I am speaking from the raiyat's point of view. As pointed out by Mr. Hare in one of his letters, the raiyat has to go to the several shareholders to adjust his rent, and he has to spend some time in haggling, and has to go from one shareholder to another; therefore this particular provision of the Bill will not benefit tenants. Why are tenants therefore to be brought in? The interested parties are the Government and the co-sharers, who ask for partition among themselves. But why should the tenants be brought in? It is said that their rights in the land ought to be recorded; one tenant says, this is my land,

a second says, I got it by will, a third, I got it by adverse possession. Are such questions to be decided finally by the Deputy Collector? Section 119 of the Bill provides that the judgment of the Collector is to have the full force of *res judicata*, but the principle of *res judicata* cannot affect a tenant. It is said that the raiyats are to be benefited by this record-of-rights; why then should they not bear a part of the expense; but why should these innocent persons be dragged into the quarrels of their landlords? It may be said that their lands are to be measured, and that it ought to be done in their presence; but that will not prevent other people from claiming those lands, and the decision of the Collector cannot therefore operate as *res judicata*. That is a question of principle which ought to be settled by the Council.

"As regards the question of survey, it is one for the consideration of the Select Committee, but it cannot be denied that by a survey and record-of-rights the expenses will increase immensely; the proceedings will not be cheapened, and the delays will be greater than they are at present in ordinary partition cases. I therefore submit that Chapter V of the Bill ought to be considered very carefully for the procedure as to survey and record-of-right prescribed in that Chapter is too cumbrous to be fit for a special enactment. As to the question of restriction, one of the Collectors has given it as his opinion that even if the minimum revenue was fixed at Rs. 5, a vast number of estates will be disqualified, and another gentleman says that two-thirds of the estates will not come under partition. These are questions for the Select Committee to consider. But I submit that in a Bill like this, the procedure should be as simple as it possibly could be, and the expenses of partition as little as possible, and the proceedings should be completed with the utmost despatch."

THE Hon'ble BABU GURU PROSHAD SEN said:—"So far as the Bill seeks to simplify, cheapen and shorten the procedure for effecting partitions of estates in Bengal, it has my entire sympathy. In that matter in some respects the Bill does not go far enough, but that is a question of details, which will come out all right after the provisions of the Bill have received the due consideration of the Select Committee. On two points only I like to make some observations at the present moment—

1st.—The restrictions to the right of partition of estates (section 10 of the Bill).

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2nd.—The introduction of what is called the procedure of Cadastral Survey in the butwarahs.

"I may premise by stating that many of those things which I intended to say have been ably said by the Hon'ble Eshan Chundra Mittra and the Hon'ble Surendranath Banerjee, and I shall not repeat those objections which they have already urged.

"On the first point it was said by the Hon'ble Mover of the Bill that the principle of restricting the right of partition had already been recognized so long ago as 1807, and again by Act VIII (B. C.) of 1876.

"The Regulation VI of 1807, which restricted the partition of estates, was very short-lived. In the early days of Regulations, on the recommendation of the Board of Revenue, the Regulation was enacted in 1807, and repealed only three years after, on the recommendation of the same Board on its gathering experience.

"The preamble of Regulation VI of 1807 states: 'Whereas under the Provisions contained in Regulations 1 and 25 of 1793, persons holding shares of estates paying revenue to Government are *entitled to a* separation of such shares, and on the completion of the butwarah by the officers of Government, and on the confirmation of the Governor-General in Council, to hold the same as distinct mahals, subject to the just proportion of the public assessment: and whereas considerable loss and inconvenience have been experienced in the collection of the public revenue from the too minute subdivisions of landed property, it was enacted, &c.'

"Two points are clear from this preamble, that the proprietors have under the Permanent Settlement a right to get the estates partitioned without any restrictions whatever, and, second, that it was only on the ground of inconvenience to the collection of revenue the restrictions were imposed and all other sides of the question ignored.

"In those halcyon days there were no long speeches and discussions, and the people affected could not be aware of the changes in our laws till the law was actually put into force.

"The preamble of Regulation 5 of 1810 states :—'The restrictions on the partition of small estates, being found productive of considerable injury to numbers of sharers in small estates, inducing a sacrifice of private rights which

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the degree of public inconvenience arising from the minute division of landed property did not appear to justify or require, it is enacted, &c.'

"With this short interval, the right of complete partition of revenue-paying estates has remained unaffected till the year 1876.

"It is true that the thin end of the wedge was then sought to be introduced, but I cannot agree in thinking with the Hon'ble Mover of the Bill that the principle of restriction was accepted, but from the absence of all discussion on the point, it leads me to the inference that the matter was overlooked because of the right of redemption conferred. Hon'ble Kristodas Paul said 'A simplification of the law of partition would be in unison with the improved ideas of the people regarding the possession and management of property. Many were the social advantages of the joint family system in this country, but the modern idea of individualism fostered by Western education and examples was sapping the foundation of that patriarchial state of society. There was now a spirit abroad that each should take care of himself; that each should employ his own talents, energies, and resources to the best advantages; that each should enjoy the fruits of his own capital and labour. We do not feel ourselves called upon to discuss here the moral aspects of the question—Whether the changed family would make man more selfish, and tend to destroy the many amiable virtues which the joint family system undoubtedly engendered and fostered. But it could not be denied that society would greatly gain by the dissemination of a spirit of self-reliance and enterprise, which was a natural sequence of the idea of individualism struggling for mastery over the native mind. The spread of this idea was a broad social fact which no one can gainsay and no one can resist, and it was therefore meet that the Legislature should second it by simplifying the law of partition.'

"These are words which apply strongly against the restriction now sought to be imposed, for if Hon'ble Kristodas's authority can be cited in this connection, it is not as that of an authority favouring restrictions on divisions, but that of one who supported unlimited divisions.

"Again, there was no question of principle of limit of the right of partition involved in the Bill of 1875-76, as that Bill provided that 'no application for separation should be entertained, the result of which would be to form one or more estates, each liable for an annual amount of land revenue less than 20 rupees, unless the proprietor of such small estates agreed to redeem his

revenue.' It was not therefore limiting the right, but the question of bringing it out of the partition in a better form of a revenue-free estate, by paying a certain sum of money to Government—I believe only 25 years' purchase. Who amongst the proprietors would not prize such a right, and thus be for ever free out of the trepidation of heart engendered by our sunset laws?

"As was well pointed out by the Hon'ble Rai Eshan Chundra Mittra Bahadur so far it was a privilege that was sought to be conferred, and not a deterioration of the right. The Government of India, however, vetoed the Bill on the ground of this redemption clause, and suggested that they would have no objection to the redemption clause if Rs. 20 were reduced to one rupee, and a Bill was brought forward in the form in which it now stands in Act VIII (B.C.) of 1876, and it was passed without opposition. It is not therefore right to say that the principle of limit had been accepted in 1876.

"This limit, without conferring the corresponding right of redeeming the Government revenue, was sought to be imposed in 1884. The limit proposed was to prevent creation of estates paying Government revenue less than Rs. 20.

"The late Hon'ble Hurbans Sahai, whose experience of mufassal, especially of Bihar districts, was great, and the Hon'ble Chandra Madhab Ghosh, who now adorns the High Court Bench, opposed the Bill. Amongst other grounds, the Hon'ble Hurbans Sahai opposed it on the ground that it did take away the right of the landlords under the Permanent Settlement to have the Government revenue partitioned. Said he:—

'Every joint proprietor had an inherent right to have the Government revenue partitioned. At present, a shareholder, however small his share might be, had every right to go to the Collector and ask for a partition of the land and the apportionment of the revenue payable by him, in order that he might not be any longer held responsible for the default of his co-sharers. This was a right which he justly had, and on what ground was he to be deprived of that right? It was not an imaginary right, but a substantial one.'

"These words prevailed. In withdrawing the Bill, the Hon'ble Mr. Dampier, whose knowledge of our revenue laws and administration of our revenues was always held to be of the best, said:—

'While the Bill for the amendment of estates Partition Act has been before this Council, a feeling has been expressed against any limitation which shall have the effect of restricting *the right which proprietors* of small interests in estates now have of obtaining a perfect

partition of their interests, both as to land and as to the general liability for the payment of land revenue. That feeling has found expression not only in this Council, but also outside in the exponents of opinions of some classes of the public, and I found in personal discussions with some of the officers from the districts in which partitions are more common that they also share in the feeling. I submitted the objections to your Honour, and your Honour thought that the relief sought to be given would be met by the provisions of Bengal Tenancy Act.

'It is a pleasant thing to sail with the fair wind of popular opinion instead of being obliged to beat up against it.'

"It will gladden the proprietary body in the country if they were to receive the same announcement from the Hon'ble Mover of the Bill. This announcement was made in a full Council, when our highest authority in question of laws, our learned Advocate-General, was present.

"It is admitted to some extent by the Hon'ble Mover of the Bill in the Objects and Reasons that such a right exists. He says: 'It is true that the Permanent Settlement Regulation I of 1793, which declared the right of property in the soil to be vested in the zamindars, and fixed their revenue in perpetuity, also declared that they were to have the right to dispose of the whole or any portion of these estates in any way they pleased,' and get an apportionment of Government. In this summing up he might have added that these declarations were made subject to some reservations, and the right of partition and apportionment of Government revenue, which was expressly given under the said Regulation, was not subject to any limitation whatever.

"But he seems to think that this limit can be imposed, because (1) every bigha of land is hypotheticated for the revenue; (2) the welfare and protection of the raiyats as well as the proprietors require it.

"The reply is that every bigha in an estate will remain hypotheticated for the payment of Government revenue after the new estates, however small, have been formed.

"Secondly, if it be meant as an argument against the division of bighas into cottahs, why that has to be done in almost all partitions, small or great, and the argument would be applicable to all partitions; and again, when it was declared in some Regulations that every bigha of land was hypotheticated for the protection of Government revenue, it meant 'every bit of land' in an estate, and we are not yet come to that pass when cottahs would form an

estate; if so, section 10 of the present Act would prevent it. As to the next argument—welfare of raiyats and proprietors—the Hon'ble Mover of the Bill states the present rule of division without any limit 'is bad for proprietors, because it tends to foster the creation and growth of an infinite number of petty pauper landlords, who not being themselves able to cultivate the lands of their microscopically small estates (since there are tenants already on the land whom they cannot legally eject) are driven to screw up rents, and quarrel with their tenants and landlord neighbours, and thus bring discredit on their class.' My hon'ble friend forgets that under the operation of both the Hindu and Muhammadan laws an infinite number of petty pauper landlords are always being treated, and the same state of things which he so graphically describes will follow the partition by the Civil Courts for which he provides; but unlike other microscopic beings of which we are now in daily dread, petty and pauper proprietorships, when they grow microscopic, under an economic law governing society, have a natural tendency to be extinct.

"Then as to the further result, it is a popular belief—and the belief is considered sound—that the man with the long purse and a good deal of influence can with impunity screw up rents, terrorize over raiyats and neighbours, and not the man who is a pauper. The fault therefore is not in unlimited partitions and creation of petty pauper proprietorships, but, with if the facts in the premises have not been readily assumed, in the lax administration of our laws.

"The further argument why unlimited partition is said to be bad is that 'it involves waste of time and labour from the proprietor's point of view, as the separate management of several petty estates must necessarily cause more trouble and expense than the joint management of petty estates.' The reply is to be found in the Hon'ble Krishtodas' speech, quoted above, on the subject of Individualism *versus* Communism.

"The Hon'ble Mover's argument ought to lead us to Communism not only here but in many other matters; but in this matter, the saving is in the creation of petty estates, where the pauper landlord shall look to his own, without his paying for hired labour. I may also parenthetically state that even the Hindu lawyers, while they provided for joint estates, provided also for partitions at the will of a single proprietor, however infinitisimal his share might be, and in Mitakshara countries even the sons can enforce a partition against the father.

[*Babu Guru Proshad Sen.*]

So far, therefore, in the proprietors' point of view, it is the provision of the Bill, and not the law which it seeks to abrogate, which is clearly bad; at any rate it is not needed for their protection and welfare.

"As for the raiyats, the existing law is held to the bad, because (1) it leads to rack-rent; (2) it compels the raiyat to pay rent at different places, to keep several sets of accounts, and to deal with different landlords; to answer to separate rent suits, and to get his crops distrained by several sets of landlords.

"As to the argument of bringing in rack-rent, I have already said what I had to say on the point. As to the second argument, I have to observe that the separation of estates does not necessarily bring in the separation of the raiyat's holding, if he has one holding, which has been allotted to different separated estates; and there are separated collections of rents even in joint estates established with the consent of the raiyats, and then the raiyats have to pay separately, keep separate accounts, and to be sued separately. Ordinarily the raiyati holdings are liable to be split by the operation of Hindu and Muhammadan laws as revenue-paying estates, as also by transfers, and it is perhaps no disadvantage to them to have their holdings separated, and, after all, the result will be the same after a Civil Court partition.

"Lastly, it is said those petty partitions impose on administration an amount of labour in effecting them and subsequent expense altogether incommensurate with any advantage accruing from them. Now I don't see how the administration shall be relieved of this labour. What is proposed is simply to transfer the Collector's duty to the Civil Courts. The amount of partition work to be done will remain the same: the cost will remain the same. In case of transfer to the Civil Court, the Court fees shall have to be paid in addition.

"Whether the costs incurred are commensurate with the advantages gained is a matter for the parties to consider. Will there be any saving of labour in the Collector's office after the limit has been fixed? Parties even after that will be entitled to have a separation of accounts, and every one who knows the details of our Tauzi Department, with their zamindari accounts and so forth, cannot but be aware of the fact that separated accounts give the Collector's amlas greater work and greater opportunity of dishonest practice than the accounts of complete separated shares, and the Collector has to look to many more things

in cases of sales for default of these separated accounts, than in the sales of entire estates; and the sales in case of separated accounts are oftener set aside for irregularities than sales in case of entire estates. In cases of separate accounts, sold as they are, subject to all incumbrances, the incumbrances not being notified, no one cares to buy shares at their proper value, and there is a loss to the proprietors, if not ultimately to Government, whereas if the same share was an entire estate, an adequate value is always realised. But I hardly think this an objection. Parties pay for the labour of administration, and if they choose to pay, there can be no reason why the establishment should not be raised to the adequate strength to meet the proper requirements of the case.

"Then it is said that it brings on a greater number of boundary disputes, a great number ending in riots, more criminal cases, more civil suits, &c., &c., &c. But the creation of small properties cannot be absolutely prevented, and nay it is proposed to create them, therefore the apprehension of these, if well-founded, shall remain all the same; but it can be mathematically proved that the general body of tax-payers gain by multiplicity of civil suits, to which all these disputes culminate at the end, and therefore there need be no apprehension on behalf of the general body of tax-payers.

"Turning to the statistics, we find that if this provision of the Bill be enacted, about 80 to 90 per cent. of the estates will remain as they are, and their proprietors shall be deprived of the right of partition: and of the rest, supposing even a fractional share-holder of an infinitismal share of an estate paying, say Rs. 5,000 as Government revenue or more, was to be a separate applicant for partition of a share paying less than Rs. 100 in the course of batwara, the others paying Rs. 1,000 or more as Government revenue would not be entitled to claim a partition and the estate will remain as it is. This was a matter very fully brought to the notice of the Council, by the Hon'ble Mr. Ghosh, on the last occasion when the matter was brought before the Council in 1884.

"A distinguished zamindar, whose opinion deserves great weight, thus sums up the objections against this provision of the Bill. He states:—

'This would be a frightfully retrogade measure.

(*a*) It goes against the grain of the policy which has been persistently followed by Government in this respect since 1793. In 1884 the Bengal Council wanted to prevent all partition which would reduce the revenue of a "separate estate" to less than Rs. 20, but the Bill was dropped by reason of the opposition it elicited.

(*b*) It ignores the well-established principle that "in all cases of joint-ownership each party has a right to demand and enforce partition : in other words, a right to be placed in a position to enjoy his own right separately, and without interruption of interference by the other." 12 W. R. 160.

(*c*) The Cess Act, 1880, the Public Demands Recovery Act, 1880, the Drainage Act, 1880, the Irrigation Act, 1876, and the Embankment Act, 1882, have saddled joint owners with liabilities which are widely felt to be extremely hard, unjust and harassing. Their only relief lies in partition. As some measure of compensation to joint owners, facilities should be given them for getting their estates partitioned, instead of throwing additional obstacles in their way.

(*d*) It would increase the hardship and stringency of the Revenue Sale Laws, already very stringent.

(*e*) The present limit of division of the land-revenue has not either reduced the security for the revenue, or increased the difficulties of collecting the revenue.

(*f*) Owing to various causes, joint-ownership exists in most objectionable forms in those provinces. A co-sharer has, in some instances, an undivided share in all the villages comprising an estate, in some a share in only a number of villages, and in others a share in some villages and specific lands in those or in other villages. The Partition Law is the only measure which should remove this state of things by allotting to a share-holder a number of entire villages or specific tract of land in a village.

(*g*) In spite of the low limit at present allowed, the number of estates has not enormously increased by partition. In Sylhet, Chittagong, and several districts in Orissa, the number of small estates is inconveniently large, but it is not owing to the operation of the Partition Laws.'

"I submit that Government revenue is not always a criterion of the value of estates, and if there is to be any limit, the limit ought to be the measure of acres it contains.

"The proviso in section 10 is liable to the objection that section 295 of the Civil Procedure Code prohibits the civil courts from making partition of estates paying revenue to Government, except through the Collector. The last case reported under section 295, the Council will find reported in the August number of the Indian Law Reports, Calcutta Series, for the present year. In 1884, the Hon'ble Mr. Dampier proposed to ask the Supreme Council to repeat this section. No such proposal has been brought forward this time; and it is only laid down that, notwithstanding the provisions of sections 205 and 315, the

[*Babu Guru Proshad Sen; Mr. Finucane.*]

Civil Courts shall complete the partition; but I ask is this Council competent to set at naught a provision of a law which has been enacted by the Supreme Legislative Council; and, if so, will the number of Munsifs be raised and the proper agency provided? We ought to be as much tender to our judges and munsiffs as to our revenue collectors and Deputy Collectors.

"The last point, on which I beg leave to say a few words at this moment, is the introduction of cadastral survey in the butwaras. The arguments against it have been very ably and clearly urged by the Hon'ble Eshan Chundra Mittra. The primary object of the Bill, I understand to be to save delays in these butwaras by simplifying the procedure. The apportionment of Government revenue, the primary object of a completed butwara, is a matter only between Government and the proprietors. The raiyats are no way interested. The determination of assets is merely a secondary matter, only necessary to arrive at a correct apportionment. This was the law hitherto; to bring in the raiyats at a butwara will complicate the procedure, and, I believe, will be very prejudicial to the interests of the raiyatwari body. They shall in fact be forced to join in a proceeding in which they are not at all interested, and by which these rights are not touched. It will waste their time and substance and lead to their ruin.

"The introduction of the Cadastral Survey, instead of expediting, will merely cause delay; for the raibundi will not be settled at all till all the raiyats or their landlords have fought out the question of their rights up to the High Court, in cases in which they think that the entry in the record of rights have not been properly made, and, what is more, those of the landlords who are not for partition, and in every case there is such a one to be found, will fight out the battle in the names of some tenants or others to the High Court, either to delay proceedings or to coerce his co-sharers to his terms. This is an evil which appears to have been overlooked.

"I hope the point of limit will be left open till the Bill has been considered by the Select Committee in all its details."

The Hon'ble Mr. Finucane said :—"Before replying to the objections taken against the Bill, I desire to acknowledge the spirit of reason and moderation displayed by the Hon'ble Members who have spoken in this debate. Anticipating that the imposition of any limit on partitions would be objected to on

the score of its being a violation of the terms of the Permanent Settlement, I have myself carefully looked into the authorities on the subject, and consulted the Hon'ble the Advocate-General, whose opinion will, I hope, be accepted by Hon'ble Members as one which, if not conclusive in a matter of this kind, is at least entitled to the greatest respect. Sir Charles Paul has authorised me to say that, in his opinion, the imposition of a limit would not involve any infringement of the terms of the Permanent Settlement. Then we have the opinion of the Hon'ble Judges of the High Court, who, it will be admitted, are always anxious to support all classes of the community in asserting and maintaining their civil rights.

"The High Court have not said a word as to the imposition of a limit being an infringement of the Permanent Settlement, but, on the contrary, say that it is desirable to impose a limit, though they think that of Rs. 100 too high.

"The Hon'ble Members, who oppose the imposition of any limit, rely on Article VIII, section 9, Article IX, section 10, of Regulation I of 1793. Now I would ask the attention of Hon'ble Members to the wording of these sections. Section 9, Article VIII, says in order that no doubt may be entertained whether proprietors are entitled, under the existing regulations, to dispose of their estates without the previous sanction of Government the Governor-General notifies to the zamindars, independent talukdars and other actual proprietors of the land that they are privileged to transfer to whomsover they may think proper, by sale, gift or otherwise, their proprietary rights in the whole or any portion of their respective estates without applying to Government for its sanction to the transfer. All such transfers were to be held to be valid, provided they were conformable to Hindu or Muhammadan law, according to the religious persuasion of the parties, and that they were not repugnant to any Regulations at the time in force passed by the British Administration, or that they might afterwards enact. The next section 10, Article IX, says that it is essential that a Notification shall be made of the principles on which the fixed assessment charged upon any such estates will be apportioned in the event of the whole of it being transferred by public or private sale, or otherwise, in two or more lots, or of a portion of it being transferred in one or two or more lots, or of its being joint-property, and of a division of it being made among the proprietors. It will be observed, the section goes on to say, that as Government

might sustain a considerable loss of revenue by disproportionate allotments of the apportionment of it if left to the proprietors, the latter were *required* to notify to the Collector all such transfers by sale, gift or otherwise, or divisions made among the proprietors in order that the fixed *jama* assessed on the whole might be apportioned or the several parts of it, and that the names of the proprietors of each share might be entered on the public registers, and that separate engagements might be taken from them. If the parties to such transfers or divisions failed to notify them to the Collector, the whole of the original estate was to be held liable for the discharge of the whole revenue as if no such transfers or divisions had taken place.

"Now the points to which I would invite attention in these articles are these:—

"*1st.*—That the right conferred by these sections was the right to transfer the whole or any portion of the estate. That right admittedly is not touched by this Bill.

"*2nd.*—That as a condition precedent to the full exercise of that right, Government imposed on the proprietors the obligation to notify transfers and divisions when made by the proprietors themselves, and that obligation was, in the words of the section itself, imposed in order to guard Government against sustaining a loss of revenue. How then can it be said that the imposition of an obligation of this kind by Government on the zamindars, for the purpose of securing its own revenue, is tantamount to the conferring of a right on the zamindars to notify such transfers and divisions, or of a right on such notification being made to obtain a partition of the revenue, whether Government thinks the partition necessary in order to guard itself against loss or not? If Government no longer thinks it necessary to insist on the obligation to report such transfers and divisions, and no longer thinks the apportionment of the revenue necessary or even desirable, surely it is at liberty to withdraw the obligation and decline to make the partition of revenue which it formerly thought, but no longer thinks, necessary, in order to guard itself against loss, without being open to the charge of infringing on any of the rights conferred by the Permanent Settlement. That the partition of revenue was not a right conferred, but an obligation imposed, is further made clear by section 13, Regulation I of 1801, which enacted that if transfers were made without being reported and without being separately assessed, they were, as far as

the rights of Government were concerned, to be considered altogether invalid. The preamble to the Regulation VI of 1807 is quoted by my hon'ble friend Babu Guru Proshad Sen, as proving that co-sharers are entitled to a partition of revenue, but all that preamble says they are entitled to is a separation of their shares, which right is not affected by this Bill, that preamble specifically says that they are entitled to hold the separate shares as separate mahals only after a butwarrah or partition of revenue had been made by officers of Government, and as the Regulation itself imposed a limit on such butwarrahs, the preamble would be self contradictory if it meant that proprietors were *entitled* to partitions of revenue in every case and then proceeded to take away their rights in this respect.

"*3rd.*—The third point which I would submit for consideration in connection with the section of Regulation I of 1793, relied upon by the Hon'ble Members who have spoken on this subject, is this: admitting, for the sake of argument (and I only admit it for the sake of argument), that Article IX of the Permanent Settlement Regulation did give the proprietors the right to claim a partition of revenue in the cases mentioned in that Article, these partitions can only be claimed in two classes of cases, namely:—

(1) Where the whole or only portion of the estate has been transferred by sale, gift or otherwise; and

(2) Where all the proprietors have made a partition among themselves.

"Legislation subsequent to the Permanent Settlement permitted, and the present Bill permits, of partition in the far larger and more important class of cases where there has been no sale and no division among the proprietors themselves, but where any one of the co-sharers, for any reason whatever, chooses to apply for partition.

"If hon'ble gentlemen, who oppose the imposition of any limit, take their stand on the Permanent Settlement and on their own interpretation of it, then it may be asked, are they prepared to go back to and abide by the provisions of that Settlement on which they rely? If they are, then the effect would be to put far more severe restrictions on partitions than are imposed by anything we contemplate under this Bill.

"But whatever interpretation may be put on section 10 of Regulation I of 1793, it cannot be denied that, as a fact, Government did impose a limit, and a very large limit too, on partitions by Regulation VI of 1807, which enacted

that no partition was to be allowed which would have the effect of creating an estate with a revenue of less than Rs. 500.

"Nobody thought at that time of questioning the right of Government to impose such a limit. That Regulation of 1807 did not repeal sections 9 and 10 of Regulation I of 1793, for the simple reason that it did not affect the rights of the zamindars, but only their obligations to notify transfers by sale and divisions made among themselves, and to obtain a partition of them, in order to render the transfer valid as regards Government. It had the practical effect of making such notifications useless in cases where the *sadar jama* of the part of property transferred, or of any share of the estate divided, was less than Rs. 500. If Regulation VI of 1807, by imposing a limit on partitions, had been thought to be an infringement of, or to be inconsistent with, section 10 of the Permanent Settlement Regulation, obviously that section would have been then repealed; but it was not repealed, because it was held then, as we hold now, that the imposition of a limit involves no infringement on, or violation of, the terms of that Settlement.

"I have dwelt on this somewhat academic discussion of this part of the case at perhaps unnecessary length, because we desire to avoid even the semblance of anything which can, with any show of reason, be construed into a violation of that compact. If I have satisfied Hon'ble Members that no such violation is intended, and no infringement of the Permanent Settlement involved in our proposals, the time occupied on the discussion will not have been spent in vain.

"Assuming now that it is proved that Government can impose a limit on partitions of revenue without violating the Permanent Settlement Regulation, I next turn to the more practical question, is it expedient, politic and just that Government should do so? In introducing the Bill I gave three reasons for the proposal to put a restriction on partitions of revenue: first, that the multiplication of petty estates had gone on in certain districts to such an extent that it was believed, if allowed to continue, to become likely to be dangerous to the security of the revenue, and that it would add so seriously to the cost of the administration in permanently-settled districts (which has to be paid by the general tax-payer) as to be likely to bring discredit on the Permanent Settlement itself by adding an intolerable burden on the tax-payer of India generally.

"A second reason given for imposing restrictions on the multiplication of petty estates was that the creation of such separate petty estates was bad for the proprietors themselves; and a third was, it was bad for their tenants.

"Now, as to the first of these reasons, as I have already said, the great majority of Revenue Officers of the entire Province, and nearly all the officers of districts in which partitions are most common, agree in thinking that a limit ought to be imposed on partitions of revenue, and that the unrestricted divisibility of the public demand constitutes a serious danger to the security of revenue. I will only quote on this point a few opinions.

"Mr. Hare, who is one of our most experienced and ablest Collectors, and is District Officer of Muzaffarpur, where the evils of the present system are most prominent, says:—

'It must be remembered that with the infinite subdivision of mahals will come an increasing difficulty of recognising them and of recovering revenue from them if they are sold for land revenue. There is a danger that if estates are indefinitely reduced, they will become unrecognisable, and their sale will become more difficult to the detriment of Government and the proprietors.'

"Mr. Toynbee, who was Commissioner of Bhagalpur when he wrote, says:—

'The present standard of limitation (Re. 1) causes an intolerable sum total of burden and expenditure on the Administration, and of litigation, oppression, and injustice on the cultivating classes.'

"Mr. Savage, Collector of Gaya, writes:—

'Under the procedure which has been in vogue up to the present time, Government has been a loser, though not to any great extent, in consequence of the disappearance of lands formed by partition into small estates.'

"The Collector of Shahabad says:—

'The ever-increasing number of petty estates by partition causes the entertainment of an enormous staff of clerks in the Revenue, Tauzi and Road Cess Departments to deal with accounts, and a huge cost falls on the general body of the rate-payers. The mistakes and frauds which occur in the Tauzi Department, an unfortunate instance of which recently occurred in this Collectorate [where there is defalcation of some lakhs in the treasury accounts], are in a very great measure due to this complication of numerous accounts.'

"The Mymensingh Landholders' Association says:—

'It is expected that the increase in partition of estates will increase the work of the Collectorate, but this is inevitable. . . . The increase in establishment will be more than

compensated by the increase in road and public works cesses which the apprehended increase of rent by landlords after partition will bring into the public treasury.'

"This is to say, according to the Association, we ought to incur extra expense in order to obtain the increase of the road and public works cesses resulting from the extra-legal enhancement of rent that they tacitly admit is brought about by partitions.

"In Monghyr, as the papers circulated with the Bill show, the collection of certain cesses which are realisable as land revenue has become impossible, because, owing to the pettiness of the estates, the demand was in some cases one pie, that is to say, less than any coin current in the country.

"I need not go on multiplying quotations and instances. It is self-evident if we permit the multiplication of petty estates to go on in Muzaffarpur and other districts of Bihar especially, that the difficulty and expense of realising the revenue must be indefinitely increased, and that *tahsildari* establishments will soon have to be employed in the interior of districts, in order to obviate the inconvenience and confusion that must arise from having tens of thousands of proprietors congregated at district head-quarters in one place in one or two days when the kists fall due, to make payments of revenue under the sunset law.

"One of the great advantages of the Permanent Settlement is that under it the revenue is held to be absolutely secure, that it is realised without difficulty and at a comparatively trifling expense. But if estates are to become as small as ordinary tenants' holdings, if the cost of realising the revenue and of the administration generally is thereby to be increased, and the revenue itself is rendered insecure, the Permanent Settlement will then have all the disadvantages attendant on *raiyatwari* temporary settlements without any of the advantages from the general tax-payer's point of view resulting from such settlements.

"The Permanent Settlement would thus become an intolerable burden on the tax-payers of other parts of India, and be open to attacks to which it has not hitherto been exposed.

"I would ask Hon'ble Members who oppose the imposition of a limit on the partibility of revenue, to look at the matter from this point of view, and I would hope that if they do, they will see that this measure is a really conservative one, calculated in the long run to benefit the proprietors and secure the revenue from danger at the same time.

[*Mr. Finucane.*]

"The second argument advanced in favour of the imposition of a limit on the subdivision of revenue was that the creation of petty estates or mahals is bad for the proprietors themselves. The overwhelmning weight of official opinion is in favour of this view, but it cannot be denied that the Landowners' Association are generally opposed to any restrictions on partitions such as are proposed.

"It is said by them and some others that whatever the evils attendant on the creation of petty proprietors may be, they are not got rid of by refusing partition of revenue. These proprietors, it is said, exist whether we recognise them as owners of separate estates or not; but surely it is one thing to have a number of proprietors jointly owning and managing a comparatively large estate as one entity, with their tenants liable to pay rent to all the co-sharers in common at one place, and another to have the co-sharers owning a number of smaller petty estates separately, managing them separately, and with the tenants liable to pay rent at several places to each of them individually. But it is said, if the infinite subdivisions of estates is bad for proprietors, why do they not themselves admit the evil and apply for a remedy? Further, my hon'ble friends say tenants are better off on small than on large estates. My answer is that proprietors admit the evil, but seek not the remedy provided in the Bill, but a law of Entail.

"On these points I may be permitted to quote the leading newspaper which represents the views of the most important proprietary Association in India, namely, the British Indian Association. The Editor of that paper, in a leading article, wrote on the 9th of May last as follows:—

'The large proprietor having a large surplus in hand year after year devotes a portion of it to founding schools and hospitals and to other objects of public utility, while at the same time keeping up the traditions of his house. Whereas the proprietor of a small estate would find it difficult to make both ends meet and would be absolutely powerless to help his tenants in times of need. Indeed, it is quite self-evident that the tenants on a large estate are sure to be better off than those on a small estate.

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'The Permanent Settlement has created a body of large landed proprietors in this Province. The law of partition has broken up many of these large estates into very small ones, but thank God! we still have a few large landed proprietors left amongst us. Now it is the resources of these large proprietors which have chiefly brought the waste lands into cultivation and which have covered the land with irrigation canals. It is a matter of common

experience that the raiyats on large estates are generally better cared for than those on small estates, and every one who has any experience of Bengal raiyats will bear us out when we say that among the tenantry of large estates there is often noticeable a strong feeling of personal attachment to the proprietor which is almost conspicuous by its absence among the tenants of small estates. Of course a great deal depends upon the personal character of the zamindar, but as a rule the large proprietor usually has both the means and the will to be generous to his tenants. Looked at from this point of view, the law of partition can scarcely be regarded as an unalloyed blessing. It has certainly led to the ruin of many eminent and wealthy houses by minute subdivision of property. This result cannot be too much deplored, and as a remedy for this evil, we have been crying ourselves hoarse for the past quarter of a century for a law of entail.'

"I cannot give a more complete answer to these questions than is given in the extract just quoted by the proprietors' own newspaper organ.

"The third argument advanced in favour of imposing restrictions on partition is that these proceedings are made use of for the purpose of illegally and improperly enhancing raiyats' rents, and that they imposed on the raiyats behind their backs, and without their consent, liabilities to pay rent to different persons in different places without their being even told what their new liabilities are, how much they will have to pay to each of their new landlords, or where or to whom they will have to pay it. This is obviously so inconsistent with the most elementary principles of justice that it is difficult to see how any one can support the present system in this respect. That partition proceedings are made use of for the purpose of bringing about illegal and inequitable enhancements of rent was proved conclusively by the evidence circulated with the Bill, and has not in fact been denied by anybody. On the contrary, the volume and weight of that evidence, which I need not now refer to in detail, has been largely added to by the reports received. A reference to these reports, which have been circulated, will show how cogent and overwhelmning the evidence on this point is. But it is said by hon'ble gentlemen the raiyats are not bound by anything entered in the partition papers; that they ought not to have been so foolish as to agree to submit to arbitrary enhancements; and therefore that there is no need to alter the law on this account.

"I would submit in reply that as practical men, we must legislate not for what *ought to be*, but for what *is*. If we find a crying evil in existence, we are bound to endeavour to apply a remedy to it even though there ought to be

no such evil in existence. This is all we propose to do, and our remedy involves no sort of injustice or hardship to the proprietors concerned.

"Here, again, it is said the raiyats have not themselves complained of the abuses attendant on the present system. Why then interfere? It is true that the raiyats do not make known their grievances by public meetings and petitions. They suffer injustice in silence, but the grievances are there all the same, and there is irrefragible evidence of their existence in the papers that have been circulated.

"I hold in my hand a petition of one Kailash Chandra Deb and 88 other raiyats of mauza Jattra Siddhi in Mymensingh, praying that a survey be made and a record-of-rights prepared of estate No. 4735 in that district, on the ground that a partition has recently been made by the Collector; that their lands have fallen on different *pattis* or shares; that various disputes have arisen with the landlords in consequence of the partition concerning the boundaries, possession and rent of their lands. In order to prevent a breach of the peace and to determine the amount of the rent payable in the *sheresta* of the different maliks, they ask that a survey be made and record-of-rights be prepared, and they agree to deposit the necessary expenses. Their application was acceded to, and the necessary notification has been, or soon will be, published in the Gazette. This is a sample of the way in which the raiyats make known their difficulties and of the inconvenience and trouble to which they are sometimes subjected by these proceedings, and this, be it observed, has occurred not in Bihar, but in the Dacca Division. Is it right that they should be subjected to these things by proceedings which, according to some Hon'ble Members, in no way affect them?

"My hon'ble friend Rai Eshan Chundra Mittra Bahadur asks what necessity there is for increasing the limit or bringing the raiyats into the proceedings at all. I have shown the necessity. The Hon'ble Member also says section 93 of the Tenancy Act gives no protection to a co-sharer landlord, because it comes into operation only when there are disputes, but he forgets that it also can be had recourse to in cases of injury to private rights. He has also overlooked the fact that this Bill does not debar any co-sharer from obtaining a partition of the land and separate possession of his share of the land, but only from obtaining a separate apportionment of his share of the revenue. Then the Hon'ble Member says the parties pay the cost of partition, why should they not be allowed to have

as much subdivision of revenue as they please. It is true they pay the cost of the partition proceedings, but they do not pay the permanent increase in the cost of administration entailed by subdivision of revenue and of estates. My hon'ble friend, Babu Guru Proshad Sen, says that, as long as separation of accounts is allowed, the refusal to allow partition of revenue will not materially lighten the Collector's work. This is no doubt true to a certain extent, but then that is not an argument against this Bill, but against the system of separation of accounts which is not under consideration. The Hon'ble Member has drawn attention to a technical difficulty in connection with section 295 of the Civil Procedure Code. That difficulty has been considered and will be met.

"I have now touched as briefly as I could on the arguments advanced against the principles of the Bill. To answer every objection in detail would entail my trespassing at intolerable length on the time of the Council, but I hope enough has been said to show that the principles of the Bill are not so bad as to justify a refusal to refer it to the Select Committee.

"I agree with Mr. Dampier who has been quoted by my hon'ble friend that it is a pleasant thing to sail with the fair wind of popular opinion, but I hope that the breeze of popular favour will be with, and not against, us on the present occasion."

The Hon'ble THE PRESIDENT said:—"I do not think it necessary that I should review the debate at any length. It has been an extremely interesting discussion, and as the Hon'ble Mr. Finucane has observed, it has been characterised by moderation and has been well conducted, and I also think the Hon'ble Mr. Finucane's reply to the objections which have been raised has been full and complete. I have no doubt whatever myself of the right of the Government to impose a limit upon the partition of estates. The generation in which the permanent settlement was passed may fairly be supposed to have had a very good idea of what its intention and scope were, and we find that in that generation a limit was proposed which is far beyond anything which has ever been suggested since. Even in the Bill, which became the present law, the principle of a limit stands in the forefront, though, no doubt, the limit there imposed is a small one. The question of redemption does not in the least affect that principle. Redemption is a matter entirely for the Executive Government, and the Government of India very properly objected to its being provided by an enactment of this Council. Personally I myself have not the least objection to

revert to the provisions of the permanent settlement, and to enact that no partition shall be effected unless the whole of the proprietors concur in applying for it, or unless there have been an absolute transfer or sale of either the whole or some portion of the estate. But I have no doubt that Hon'ble Members who have spoken in opposition to the principle of our Bill will be the first to object to a limitation of that description. I have authorised the Hon'ble Mr. Finucane to tell you that the Government considers the limitation proposed in the Bill, which, as far as I am concerned, is an inherited measure, to be far too high. I specially object to the very high limit, because there is such a wide divorcement between the assets of estates in Bengal and the Government revenue. If we are to take a limitation of Rs. 100, we shall prevent many estates from being divided, and the shareholders from enjoying the benefits of partition, where there would be no risk to the Government revenue and no risk of any mischief to the tenants. I believe that the limitation of Rs. 20 previously proposed in this Council is a very practical working limit which I for one will be perfectly willing to stand by.

"I am not convinced that section 95 need make such elaborate provisions for measurement and a record of rights as it now does. What you want is to ascertain the true assets of an estate; then to see that the assets are properly distributed, and that those who will be affected by the distribution are made aware of their liabilities. I have no doubt that in Select Committee very material modifications will be made in this Chapter of the Bill, but I trust that the main object of the Bill, to simplify and cheapen the procedure, will be maintained.

"I have failed to follow the Hon'ble Rai Eshan Chundra Mittra Bahadur in his remarks about *res judicata*. I can find nothing which makes proceedings in Partition *res judicata*. I do not think it was ever intended to enact that the Deputy Collector should have power absolutely to settle all civil rights. That must be carefully left to the decision of the Civil Courts. The Chapter will in any case have to be recast to coincide with the amendments which we propose to make in Chapter X of the Tenancy Act.

"I do not think there is any other point upon which I need comment. I shall only express the hope that the Select Committee will carefully consider the very valuable opinions which have been received both from officials and from non-official bodies, and that when the Bill comes from their hands, it will be improved, and turn out to be a generally satisfactory measure."

The Motion was put and agreed to.

[*Mr. Finucane; Mr. Grimley.*]

MURRAY TRUST BILL.

The Hon'ble MR. FINNUCANE also introduced the Bill to enlarge the scope of the Charitable Trust created by the Will of the late Mrs. Sally Murray, and moved that it be read in Council.

The Motion was put and agreed to.

The Bill was read accordingly.

CHUTIA NAGPUR TENANCY BILL.

The Hon'ble Mr. Grimley moved for leave to introduce a Bill to regulate the enhancement of rents, the commutation of predial conditions or services, and the registration and resumption of intermediate tenures in parts of Chutia Nagpur. He said:—

"In asking leave to introduce a Bill for the commutation of predial services in Chota Nagpur, it seems desirable that I should explain the necessity for the measure. For some years past there have been agrarian disputes in Chota Nagpur, more especially in the Lohardaga district, between landlords and tenants, regarding rights to land and the conditions attaching thereto, which have from time to time caused much anxiety to the district authorities and seriously interfered with the good government of the country. One of the chief causes of these disputes is the peculiar system of *bethbegari*, or labour rents, by which the tenant is bound to perform a certain amount of work for his landlord, such as tilling lands, building houses and carrying luggage on a journey without receiving wages; another is the numerous list of *rakumats* or cesses, uncertain in their incidence, which are payable sometimes in money, sometimes in kind, in addition to the regular rental. The last occasion on which there was any serious agitation was from 1887 to 1889, when the raiyats complained of the exaction by the zamindars of service and *rakumats* in excess of what was customary and proper, and began in some instances to put forward unreasonable claims to hold their lands irrespective of the zamindar, subject only to a quit-rent to be paid to Government. The present Bill is the outcome of the measures taken for repressing that agitation, and of the discussions which followed between the Commissioner of Chota Nagpur and

this Government and the Government of India. The existing law [Act I (B.C.) of 1879] permits the landlord or tenant to apply for commutation of conditions or services to which the tenant is liable, but the provision is seldom used, the landlord preferring to take what service he can enforce by the rule of might, and the tenant sometimes refusing to render any service at all. In the Bill the provisions regarding voluntary commutation are retained, but power is taken to Government to direct that a record of conditions or services shall be prepared, and a commutation of them into money rents made by a Revenue Officer, whenever such a course may seem expedient, or, in other words, when found necessary for the preservation of the peace of the country. The Bill also provides for the registration of tenures and for the resumption of such tenures as are held conditionally on the survival of male heirs of the original grantee. Simultaneously with the passing of this Bill it is proposed to extend the Bengal Tenancy Act with certain modifications to the districts of Chota Nagpur, as it will be likely to effect a distinct improvement in the settlement of questions at issue between landlord and tenant.

"I have no desire to trespass on the time of this Council, but as some Hon'ble Members may not be familiar with the conditions of life and lands holding in Chota Nagpur, I propose to take a retrospect of the origin and history of the long series of disputes which culminated in the agitation which gave rise to the present Bill. Excluding the Native States, Chota Nagpur covers an area of 27,000 square miles, and consists of the districts of Lohardaga, Hazaribagh, Manbhum, Singhbhum and Palamau. The Bill affects all these districts except Manbhum, while the Bengal Tenancy Act will be generally applicable. Chota Nagpur is far behind the rest of Bengal in point of civilisation, and, though brought a little nearer in recent times, has always occupied an isolated position.

"Its most striking features are its pleasant climate, the extensive plateaux rising in terraces one above another, the ranges of hills intermingled with plains and valleys, the vast forests, and what is more to our present purpose, the peculiar nature of the land tenures, the primitive inhabitants with their superstitions, their belief in demons and witch-craft, and their curious history and traditions. The country is undulating and in some parts extremely fertile, though requiring the expenditure of much labour to bring it into cultivation.

[*Mr. Grimley.*]

"Among the aboriginal races who have made a home in these remote plateaux are the Mundas and Uraons, both commonly described as Kols, though belonging to a different stock and speaking a different language; for, strictly speaking, the Uraons are of Dravidian origin, while the Mundas are Kolarians, to use the term invented by Sir George Campbell. Both, however, have the same kind of festivals and the same form of public worship, though they do not inter-marry, and at one time they had also the same form of government. From the traditions handed down, it appears that some eight or ten centuries ago, being driven out of Bihar, they sought refuge in the central table-land of Chota Nagpur, then known as the 'Jharkhand' or forest tract, which was well adapted for defence, the approaches to it being precipitious paths, narrow defiles, or the beds of rivers that have their source on the plateaux. This central portion is chiefly what is now known as the district of Lohardaga and parts of Hazaribagh, and is Chota Nagpur Proper, as distinct from the rest of the Division.

"When the Mundaries first found an asylum there, it was covered with beautiful *sal* forests, but in process of time they cleared the jungle and securely established themselves as the first settlers, and under a system of village communes lived in a state of primitive contentment and simplicity, without being subject to any Raja or landlord of any description, and mostly freed from the unpleasant obligation of paying rents. Each village was presided over by a headman or Munda, and a collection of 12 villages, called a *parha*, by a Manki, who was chosen from among the village Mundas. These Chiefs had no superior proprietary rights in the soil to the rest of the villagers; but in common with other persons in authority, to whom the administration of the village affairs was entrusted, received service lands as remuneration. These colonists, when they first came, seem to have acted on Manu's principle: 'the cultivated land is the property of him who cut away the wood or who cleared and tilled it,' and therefore they all claimed equal rights in the soil, but made provision for the support of the heads of the villages and the Manki. The service lands allotted to the Munda and Manki were called Mundai and Mardana, respectively. These Mankis or Parha Chiefs in course of time developed into titular Rajas. Owing to causes which I shall explain on another occasion, this system has been broken up in many parts of the province; but in the Kolhan of Singhbhum and certain five parganas of the Lohardaga district,

the village commune still obtains in a modified form. Some lands were also assigned for the support of the priest called pahanai, and others termed bhut-khetta, or devil's acre, were set apart for the propitiation of the local deities, who require a large share of attention. Every village has its sacred grove, wherein the tutelary deity is supposed to sojourn, and being particularly responsible for the crops, he is especially honoured at the great agricultural feasts. They are, indeed, rich in sylvan gods, naiads and dryads, who are regarded as presiding over pools, rivers, rocks and mountains, and there is hardly a family that cannot boast of a ghost or ancestral shade in proof of its high antiquity. These shades serve a useful purpose as, when any misfortune or calamitous visitation arises, they are made to bear the blame. There was an official in every village—a Baiga—whose duty it was, in Psalmist's phrase, 'to keep the village' and to propitiate the invisible spirits in order to ward off blights, droughts, diseases, and other calamities. The office remains to the present day not only in Chota Nagpur Proper, but in the Native States, and on any visitation of pestilence or famine, he has an uncommonly bad time of it, worse than that of the Calcutta Health Officer, and sometimes an iron scourge is kept in the rustic temple at the entrance of the village with which he is supposed to castigate himself when things are at the worst. He sometimes omits this part of his duty, and tries to shift the blame on to other shoulders. I have, indeed, known him by the aid of a Special Committee of Diviners to be successful in fixing the responsibility on to a witch who was scourged instead with lamentable results.

"But to return to the main subject. At some period in their history the Kols came under subjection to the Nagbansi family, the Raja of Chota Nagpur, whom they agreed to serve and support. It is not quite clear how the Nagbansi family came on the scene, and it is too long a story to examine closely the different theories that have been set up to account for this. According to one tradition the progenitor of the race was sprung from the union of a snake with the daughter of a Benares Brahmin, and was selected by the people to become their Raja because of his supernatural or miraculous origin. Another theory is that he was a superior Manki who, by his intelligence, tact and prowess, had raised himself above the rest, and that when the Kols, like the children of Israel, desired a King to rule over them, the lot fell upon the chief of the Nagbansi family. Whichever of these theories may be correct, it is clear that they accepted him

[*Mr. Grimley.*]

as their Raja, and gave him lands from every village for his maintenance. The people in each village were divided into two classes—the more privileged called 'Bhuinhars,' breakers of the soil, held their lands rent-free and had to render honorary service, such as attendance at darbars and marriages, and, like Norval, following to the field their warlike lord. The inferior class supplied food and raiment; but this obligation was eventually commuted to a money payment, and the cultivated lands they held were termed rajas or rent-paying, in contradistinction to the Bhuinhari tenures which were held rent-free. The Raja was also allowed to hold in each village a certain amount of land termed 'majhihas,' or the headman's share, which was held for his benefit or that of the person who looked after his interest, and the persons who cultivated it received assignments of land in return for their services, called *bethkheta*, which they were allowed to hold rent-free. Thus a system grew up hardly distinguishable from the feudal system in Europe in the middle ages, and under it the raiyats were fairly well content and happy, and in this condition of Arcadian simplicity, I propose to leave them until our next meeting, when I will explain the causes of their transition, amid much tribulation, to the state which gave rise to the Bill which I now ask leave to introduce."

The Motion was put and agreed to.

The Council adjourned to Saturday, the 16th January, 1897.

CALCUTTA;
The 30th January, 1897.

F. G. WIGLEY,
Offg. Asst. Secy. to the Govt. of Bengal,
Legislative Dept.

Reg. No. 891G—900—2-2-97.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met at the Council Chamber on Saturday, the 16th January, 1897.

Present:

The Hon'ble W. H. GRIMLEY, *presiding.*
The Hon'ble H. H. RISLEY, C.I.E.
The Hon'ble RAI DURGA GATI BANERJEA BAHADUR, C.I.E.
The Hon'ble NAWAB SYUD AMEER HOSSEIN, C.I.E.
The Hon'ble C. E. BUCKLAND, C.I.E.
The Hon'ble M. FINUCANE.
The Hon'ble C. W. BOLTON.
The Hon'ble C. A. WILKINS.
The Hon'ble SURENDRANATH BANERJEE.
The Hon'ble A. M. BOSE.
The Hon'ble RAI ESHAN CHUNDRA MITTRA BAHADUR.
The Hon'ble GURU PROSHAD SEN.
The Hon'ble MAHARAJA BAHADUR SIR RAVANESHWAR PROSHAD SINGH, K.C.I.E., of Gidhaur.
The Hon'ble M. S. DAS.
The Hon'ble A. H. WALLIS.
The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH.

NEW MEMBER.

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH took his seat in Council.

THE PRESIDENT'S OPENING STATEMENT.

THE Hon'ble THE PRESIDENT, in taking his seat, said :—"I regret to have to inform the Council that His Honour the Lieutenant-Governor is unable to attend to-day owing to indisposition, and as the Hon'ble the Advocate-General is absent from Calcutta, it devolves upon me as the Official Member next in rank to preside on this occasion."

[*Babu Surendranath Banerjee ; Mr. Bolton.*]

TRAFFIC IN GIRLS IN DACCA AND NAR GUNGE.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Has the attention of the Government been drawn t complaint made by the *East* newspaper regarding the traffic in girls who e often minors, carried on at Dacca and Naraingunge? Whether it is true at in one case a girl named Sashi Mukhi, aged about 8 or 9 years, was br ht down from Garifa near Hooghly, and the girl even in that tender age s compelled to carry on her nefarious calling, against which she protested d whether in another case in which the victim was a girl named Basanta, a l about 12 or 13 years, criminal proceedings having been instituted, the Dep Magistrate who tried the case remarked:—

"On account of the public notoriety of the town of Dacca as regards th affic of minor girls and the attempt of the Sub-Inspector, Giraja Kanta Pal, to suppress it, t this case has no doubt arisen."

And again:—

"The evidence collected here is of Benodine, another girl who is no doub ng maintained for purposes of prostitution. She is aged about 12 years."

Having regard to the facts disclosed above, will the Government pleased to take requisite steps for the suppression of this traffic in girls.

The Hon'ble MR. BOLTON replied:—

"From reports which have been received from the local officers, it ppears that the two cases mentioned by the Hon'ble Member occurred two a two-and-a-half years ago, respectively. The girl Sashi Mukhi was, it is true, b ught down from Garifa for immoral purposes. Her age appears to have been bout 11 years. The extracts from the judgment of the Deputy Magistrate in the second case have been correctly quoted by the Hon'ble Member.

"During a period of two years, August, 1894 to September, 1896, six ca s, three in the town of Dacca and three in Narainganj, were brought to trial un r sections 372 and 373 of the Indian Penal Code. Convictions were obtained in five cases, but on appeal the order of the Lower Court was confirmed in only one case, and was modified in another, and set aside in two cases. Satisfactory evidence is not generally procurable in these cases, and it is difficult for the Police to deal successfully with them. The local officers report that the evil

has shown no tendency to increase in recent years, and the Lieutenant-Governor does not consider that any special measures on the part of the Government are needed. Any cases reported will be carefully investigated as hitherto, and guilty parties will be prosecuted whenever evidence is obtained."

REDUCTION OF EXPENDITURE ON EDUCATION.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

(*a*) Whether the attention of the Government has been drawn to a letter, No. 819L. S.-G., dated Calcutta the 16th November, 1896, written by Mr. Westmacott, Commissioner of the Presidency Division, addressed to the Magistrate and Chairman of the District Board, Nadia, asking him to reduce the educational expenditure by Rs. 3,179, and to spend this amount upon medical relief and other minor charges for the current year (these charges being hitherto met from other sources of the Board's income), and to give notice to the Secretaries of the middle English and middle vernacular schools that their grants would be stopped from April next?

(*b*) Whether the attention of the Government has been drawn to a subsequent letter of the same Commissioner, addressed to the same officer, asking the Nadia District Board to increase the primary education grant from next year to Rs. 20,000 and reduce the secondary school grant, with a view to meet the cost for dispensaries and other medical charges out of the proceeds of pounds and ferries, and to give a similar notice to the Secretaries of the secondary schools within the district of Nadia?

(*c*) Does the Government approve of this proposed reduction of secondary school grants and the consequent abolition and ruin of several secondary schools founded by the people and maintained by Government and the people for nearly a quarter of a century or more? Will the Government be pleased to direct the withdrawal of these orders passed by Mr. Westmacott, and which, if enforced, would prove disastrous to the interests of education in the Nadia district?

(*d*) Is the Government aware that Mr. Macaulay, the then Chief Secretary, in his letter No. 1451, Municipal Department, dated the 5th May, 1888, popularly called "The Model Educational Budget," fixed the educational expenditure

of the Board, and asked the Board to spend at least Rs. 10,008 upon secondary and about Rs. 13,000 upon primary education, and placed in the hands of the Board the proceeds of all pounds and some ferries with a view to meet the educational expenditure, taking all minor educational charges into his consideration?

(*e*) Is the Government further aware that Mr. Cotton, the then Secretary to the Government of Bengal in the Municipal Department, in his letter No. L $\frac{B}{9}$ 2, dated Calcutta, December, 1888, in order to show the equilibrium between the receipts and charges of the Board for educational purposes, did not consider medical charge as a charge to be met from the income from pounds and ferries, but laid down that the charge for secondary and primary education and some other minor charges should be met from those proceeds, the receipts being Rs. 33,186 and the charges for education and pounds and some other minor matters being Rs. 33,163, leaving a balance of Rs. 23 only?

(*f*) Does the Government approve of the principle as laid down in the above two letters? Does the Government approve of the action of Mr. Westmacott in throwing an additional burden of medical charges upon the proceeds of pounds and ferries, and in asking the Board to reduce its educational expenditure and the grants for secondary education?

The Hon'ble MR. RISLEY replied:—

"A representation was received from the Nadia Branch of the Indian Association, protesting against the action of the Nadia District Board in reducing their expenditure on secondary education in order to provide for distress medical relief during the current year. In accordance with standing orders this was returned to the Association for submission through the District Board and has not yet reached Government. The Lieutenant-Governor approves of the principle that the claims of primary education to support from public funds should generally take precedence over those of secondary education, but no hard-and-fast rule can be laid down as to the application of this principle to individual cases. When the facts of the present case are reported, the Lieutenant-Governor will consider whether the orders passed by the Commissioner involve a serious loss of efficiency or conflict with any understanding implied in the transfer of charges to District Boards, which was carried out in 1888. By Mr. Macaulay's letter of the 5th May, 1888, the improvable

income of the pounds and certain ferries was made over to the District Board of Nadia to meet expenditure on education, pound, ferries and medical purposes. No mention was made of medical charges in Mr. Cotton's letter of 4th January, 1889, because no medical expenditure was then incurred by the Board."

DIVERSITY OF WEIGHTS AND MEASURES.

The Hon'ble MAHARAJA BAHADUR SIR RAVANESHWAR PROSHAD SINGH OF GIDHAUR asked—

Is the Government aware that a great diversity of weights and measures prevails in the districts of Bihar as well as of Bengal to the great inconvenience of the public? If so, is the Government prepared to take steps to secure the uniformity of weights and measures in the country?

The Hon'ble MR. RISLEY replied:—

"The Lieutenant-Governor is aware of the great diversity of the weights and measures used in the mufassal districts of Bihar and Bengal. The difficulty, however, of introducing uniform standards and enforcing their use is extreme, and it is for this reason that no action under Act XXXI of 1871, the Indian Weights and Measures of Capacity Act, has hitherto been taken by the Government of India. The Lieutenant-Governor is not prepared to move the Government of India to put the Act in force."

DELAY IN THE DELIVERY OF JUDGMENTS BY SUBORDINATE MAGISTRATES.

The Hon'ble MAHARAJA BAHADUR SIR RAVANESHWAR PROSHAD SINGH OF GIDHAUR asked—

Is the Government aware that a great inconvenience is very often caused to the public by the Subordinate Magistrates reserving judgments for long periods, litigants being made to attend the Courts from day to day, and that such inconvenience may be avoided if the Government would, by a rule, fix a time by which judgments should be delivered after the hearing of the case?

The Hon'ble MR. BOLTON replied:—

"Complaints have not been made to the Government of inconvenience caused to parties by undue delay in the delivery of judgments by subordinate Magistrates; but the Lieutenant-Governor considers it desirable that the attention of the Magistrates should be drawn to this matter, and a Circular will accordingly be issued, with the view of ensuring that judgment shall be delivered in criminal cases without unnecessary delay."

MURRAY TRUST BILL.

The Hon'ble Mr. Finucane moved that the Bill to enlarge the scope of the Charitable Trust created by the Will of the late Mrs. Sally Murray be referred to a Select Committee consisting of the Hon'ble Sir Charles Paul, the Hon'ble Nawab Syud Ameer Hossein, the Hon'ble Mr. Wilkins, the Hon'ble Mr. Wallis and the Mover.

The Motion was put and agreed to.

PUBLIC DEMANDS RECOVERY ACT, 1895, AMENDMENT BILL.

The Hon'ble Mr. Finucane also moved that the Hon'ble Rai Eshan Chundra Mittra Bahadur be added to the Select Committee on the Bill to amend the Public Demands Recovery Act, 1895.

The Motion was put and agreed to.

ESTATE'S PARTITION BILL.

The Hon'ble Mr. Finucane also moved that the Hon'ble Rai Eshan Chundra Mittra Bahadur be added to the Select Committee on the Bill to amend the law relating to the Partition of Estates.

The Motion was put and agreed to.

[*Mr. Grimley.*]

CHUTIA NAGPUR TENANCY BILL.

The Hon'ble Mr. Grimley introduced the Bill to regulate the enhancement of rents, the commutation of predial conditions or services, and the registration and resumption of intermediate tenures, in parts of Chutia Nagpur, and moved that it be read in Council. He said:—

"It will be in the recollection of the Council that when I last had the honour of addressing them on the subject of the Chutia Nagpur Bill, I left the Kols in a condition of pastoral freedom and independence. But this pleasing state of things only lasted for a time, for gradually the Raja's family came under the influence of Brahminism, and, as their power increased, they began to look down on the Kols, to treat them with degradation, to deprive them of their rights, and eventually reduced them almost to a state of serfdom. Their descent may be traced through the following stages: encroachment on their rights by the Raja, who distributed whole parganas and villages among Kunwars, Thakurs, Lallas and other members of his family as maintenance grants; their revolt and final subjugation with loss of lands and diminution of rights through the instrumentality of foreign mercenaries who were retained in the Raja's employ and received jagirs of land in return for their services; the introduction of Brahmins into the country to carry out innovations desired by the Raja, and later on of a lower order of persons, Musalman and Sikh horse-dealers, shawl and silk merchants, and other adventurers, to whose influence, owing to pecuniary difficulties, the Nagbansi Chiefs became subservient, and to whom they granted farms of land for goods supplied or loans advanced. The oppression of these middlemen gradually broke down the authority of the village Chiefs in many parts of the country and ended in their disestablishment, and eventually drove the Kols into rebellion in 1831, the upshot of which was unfavourable to them and was accompanied by a great disturbance of peasant proprietary rights. Many of the Kols were compelled to leave their country, but after a time they returned to claim their lands. The jagirdars, however, objected to their re-entry, and disputes and contests were renewed and continued for many years.

"Meanwhile the Christian Mission was established in Chota Nagpur in 1845. The Missionaries took the Kols by the hand, and their teachings fostered a spirit of independence among them, developed their crude traditions regarding

their rights in olden days, when each person was in a manner the proprietor of the soil which he cultivated, and encouraged aspirations which were not likely ever to be realised. The result was a great accession to the ranks of nominal Christians. In the Mutiny the Christian Kols suffered persecution, and conflicts arose, which had to be put down by a military force. This was followed by operations intended to secure the measurement and registration of tenures and matters quieted down for a time, and the disputes were not revived until 1867, when a monster petition was presented to Government by Native Christians complaining of systematic oppression on the part of their landlords. The disputes related to encroachments on both sides, to the absorption by zamindars of bhuinhari and bethketa lands into the rajhas or majhihas lands, and to the exaction of services in excess of the customary modes. This led to the passing of the Chota Nagpur Tenures Act, II (B.C.) of 1869, and the appointment of the Bhuinhari Commissioners to define and record tenures and to register all rights, privileges, immunities, and liabilities affecting the holders. The Act also provided for the restoration of land, of which the owners might have been dispossessed within the twenty years preceding the date of the passing of the Act. These operations, though unquestionably beneficial as far as they went to all concerned, fell short of securing perfect harmony and peace, owing to the exclusion from the enquiry of rajhas lands and of certain descriptions of tenures called korkar and khuntkati, in which the holders claimed rights of occupancy; and, in the second place, neither it, nor the rent law which was passed some ten years later, rendered the commutation of predial services into money payments compulsory.

"Finding no claims would be heard by the Special Commissioners, unless the same had reference to bhuinhari lands, the rajhas lands were claimed by the tenants in a wholesale way as bhuinhari, and the result was much disappointment and an increase of bitterness and strife between them and their landlords. The customary service, which the landlord was entitled to receive in respect of the cultivation of his manjhihas or khas lands, was three days' ploughing, three days' digging, three days' sowing, and three days' cutting, with one or two days for threshing and storing grain; the raiyats had also to bring grass and bamboos for thatching his house, and when on a journey to carry his banghees; this constituted the recognized *bethbegari*, which was to be commuted under the law where practicable; but, as already remarked, the law did not

provide for the compulsory commutation of these services, and the complaint now is that they are levied in respect of lands not subject to them and from persons who are not liable to render them, and that the zamindar is no longer content with the customary rate, but takes as much as he is able to enforce. This is a burning question, one of the chief grievances of the Kols, and the problem to be solved is how to deliver them from the burden of *bethbegari*, without inflicting injustice on the land-holding classes. The Kols are by nature singularly tenacious of purpose, and under the spirit of independence, inculcated by the teachings of Christianity, have been most persistent in asserting their claims. They are well versed in the old traditions of their race, and seem to have dwelt so much on the story of their past wrongs that they have worked themselves into the belief in the possibility of reverting to the old order of things, and of going back to the time when their forefathers lived in a state of primitive simplicity under a village commune; for, in 1887, we find them seriously asserting a claim to hold the land as proprietor, without the intervention of Rajas, zamindars, or middle-men of any kind.

"There are three Christian Committees working side by side in Chota Nagpur, namely, the Anglican, German Lutheran, and Roman Catholic Missions, and the history of the agitation that has been going on among the Kols intermittently since 1867, when the Memorial from some 14,000 Native Christians was presented to Government, affords ground for the belief that many persons conceived the idea that, by embracing Christianity, they would be entitled to the support not only of their spiritual pastors, but also of Europeans generally in the settlement of their grievances and vindication of their rights. It was matter too for observation that those who became Christians escaped the obligation of making contributions for the propitiation of the local dieties. Between 1867 and 1885 various petitions were made to Government by the Kols, setting forth claims in respect of the tenure of land more or less extravagant and unreasonable. The most important was a Memorial from the Missionaries of the German Lutheran Church, stating the grievances under which the Christian Kols were labouring in connection with the operations under the Chota Nagpur Tenures Act. These Memorials were considered by Government, and eventually the matter was laid before the Secretary of State, who in 1882 issued orders declaring that the results of the proceedings under that Act should be considered final. The agitators, however, did not choose to

[*Mr. Grimley.*]

remain quiet, but still went on memorialising, being encouraged in their action by certain legal advisers, who found it to their interest to excite the people to raise subscriptions for the prosecutions of their claims. A few years ago a party calling themselves the 'Children of Israel,' and headed by 'John the Baptist,' banded together and set up a 'Raj' at a place which was a former seat of the Raja of Chota Nagpur. This absurd movement gave some trouble to the district authorities, but was promptly and firmly checked.

"The action taken by a prominent leader of the agitation at one time would have been intensely ludicrous but for its serious aspect. He wrote to the Deputy Commissioner informing him that he and others intended going to England to lay the Kol grievances before the Queen, and he solemnly desired that officer to issue a parwana to Her Majesty to supply tents and *rasad* for his party during their stay in England. Having brought down events to 1887, I propose to resume the story on a future occasion, but will now merely introduce the Bill which has been prepared with the object of settling these disputes which I have described and ask that it may be read in Council."

The Motion was put and agreed to.

The Bill was read accordingly.

The Council adjourned to Saturday, the 6th February, 1897.

CALCUTTA;
The 30th January, 1897.

F. G. WIGLEY,
Offg. Asst. Secretary to the Govt. of Bengal,
Legislative Department.

[By subsequent order of the President, the Meeting of the Council was postponed to Saturday, the 13th February, 1897.]

Reg. No. 392G—300—2-2-97.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met at the Council Chamber on Saturday, the 13th February, 1897.

Present:

The Hon'ble SIR ALEXANDER MACKENZIE, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.
The Hon'ble SIR CHARLES PAUL, K.C.I.E., Advocate-General of Bengal.
The Hon'ble H. H. RISLEY, C.I.E.
The Hon'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.
The Hon'ble NAWAB SYUD AMEER HOSSEIN, C.I.E.
The Hon'ble C. E. BUCKLAND, C.I.E.
The Hon'ble M. FINUCANE.
The Hon'ble C. W. BOLTON.
The Hon'ble W. H. GRIMLEY.
The Hon'ble J. G. H. GLASS, C.I.E.
The Hon'ble C. A. WILKINS.
The Hon'ble SURENDRANATH BANERJEE.
The Hon'ble A. M. BOSE.
The Hon'ble RAI ESHAN CHUNDRA MITTRA, BAHADUR.
The Hon'ble GURU PROSHAD SEN.
The Hon'ble M. S. DAS.
The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH.

FORCIBLE REMOVAL OF SMALL-POX PATIENTS TO HOSPITAL.

The Hon'ble BABU GURU PROSHAD SEN asked—

Has the attention of Government been drawn to an article in the *Statesman* newspaper, published in its issue of the 17th January, regarding certain cases of forcible removal of patients suffering from small-pox in the town of Howrah from their houses to the General Hospital, by order of the authorities, notwithstanding that the relatives offered to isolate them in their own houses and to arrange for their treatment?

[*Babu Guru Proshad Sen; Mr. Risley.*]

Will it please Government to rule that in such cases, forcible removal, specially of females and children, is not necessary; and even if in any case the isolation being impracticable in their own houses, the removal of the patients to isolation hospitals comes to be necessary, the relations, if they are willing to attend on the patients, and to remain isolated, shall be allowed to do so?

The Hon'ble MR. RISLEY replied:—

"The facts referred to in the first part of the question are, it is believed, now under judicial enquiry. The Lieutenant-Governor is not prepared to lay down any general rules on the subject of the isolation of persons suffering from small-pox. It is for the responsible medical officer to decide in each case whether the removal of a patient to hospital is desirable in the interests of the public, and to use his influence to bring about such removal, while it is for the Superintendent of the hospital to determine whether relatives can be allowed to attend on such patients. Where the outbreak is severe and the hospital is crowded, such an arrangement would obviously be impossible."

SALE OF ESTATES FOR ARREARS OF REVENUE.

The Hon'ble BABU GURU PROSHAD SEN asked—

To ensure the sale of the estates for arrears of Government revenue at adequate prices, will the Government be pleased to order that all sales for arrears of Government revenue take place on certain fixed days in each quarter, say 15th March for all arrears unpaid on the 12th January, and all arrears of previous *kists*, the sales for which could not be arranged at an earlier quarter sale day; 30th May for all arrears unpaid on the 28th March and previous *kists* when necessary; 15th August for all arrears unpaid on the 7th June, and 30th November for arrears unpaid on the 28th September or on any other date which the Board of Revenue may fix either for all districts, or district by district, in consultation with the local authorities, instead of, as now, leaving the dates to be fixed by the Collector, or his ministerial officer, according to the convenience of the office? Is the Government aware that such a rule in the case of sales for execution of decrees of Civil Courts brings in Court a large number of intending purchasers on the fixed sale days, and results in the properties being sold at their adequate prices?

[*Mr. Finucane.*]

The Hon'ble MR. FINUCANE replied :—

"A proposal similar to that now made by the Hon'ble Member was submitted to the Board of Revenue by the Bihar Landholders' Association, and was fully considered by them. The Board, for the reasons stated in their letter No. 703A, dated the 14th March, 1896, a copy of which is laid upon the table, were unable to accept the proposal. The Government agree with the Board."

No. 703A, dated Calcutta, the 14th May, 1896.

From—F. A. SLACK, Esq., Offg. Secretary to the Board of Revenue, L. P.,

To—The Secretary, Bihar Landholders' Association.

THE HON'BLE C. C. STEVENS, C.S.I.

IN continuation of the Board's letter No. 1244A, dated the 6th of September, 1895, regarding the dates for holding sales under the Revenue Sale Law and the Certificate Procedure, I am now directed to communicate the following observations with reference to your letter of the 23rd of August, 1895, in which it is suggested (1) that the rule of having sales on a certain day in a month may be advantageously adopted with regard to sales under the Certificate Act, and that the 15th of each month be fixed as the date, the hour being one later or earlier than that fixed for the Civil Court sales, where such happen on the 15th; and (2) that revenue sales should take place on a certain date in each quarter to be known by the people beforehand, and that certain dates proposed by the Association may be fixed for such sales.

2. With regard to the first point, I am to say—

(*a*) that the matter had already attracted the notice of the Board by whom was issued clause VI of rule 1, Section IV, page 26, of the Certificate Procedure Manual of 1895, a copy of which is herewith enclosed;

(*b*) that the Board have reason to believe that these instructions are followed in most districts, and that the attention of the Divisional Commissioners will again be drawn to the subject with a view of introducing the procedure where such has not already been done; and

(*c*) that, bearing in mind the variations in the requirements of the different districts, the date or dates on which such sales should be held monthly is a matter which must be left to the discretion of the Collector concerned to settle.

3. Referring to the second point, concerning the dates of sales for arrears of revenue, I am to state that, in order to go through the whole of the necessary procedure, much more time is requisite than the Association appear to think, and that, in order to provide for all chances of illness among, and delay on the part of, the establishment, a long term would have to be fixed, which would be inconvenient. If this were not done, there would be great risk of occasional, possibly frequent, failures on the part of the Collector's establishment to have the requisite arrangements completed by the day appointed for the sale. This would render postponements of three months necessary, and the public interests would thereby suffer. Further, it would not be convenient that sales of estates under section 14 of Act XI of 1859, for the defaults of shares, should be put off for so long as three months, as they would probably have to be if certain days were fixed, on which alone sales could take place. I am also to add that experience shows both that the attendance at revenue sales is good, and that the dates are well known beforehand. The Board therefore do not find themselves in a position to concur with the Association's proposal.

No. 704A.

COPY forwarded to all Commissioners for information, and for communication to the District Officers under them, for their information and guidance.

By order of the Board of Revenue, L.P.,

. SLACK,

Offg. Secretary.

CALCUTTA;
The 14th May, 1896.

ROAD-CESS PAPERS.

The Hon'ble BABU GURU PROSHAD SEN asked—

With the same object in view, will the Government be pleased, by an executive order, to rule that road-cess papers, showing the annual value of estates advertised for sale, form a part of the sale Records, and a return from Registration office, showing the incumbrances on the shares of estates to be sold, in cases of sales of shares under section 13 of the Revenue Sale Law, it being made one of the conditions of sales that they are nowise to be affected by the incorrectness of these returns?

The Hon'ble MR. FINUCANE replied:—

"In the opinion of Government it is not desirable to make the rule suggested. Any person intending to buy has ample time beforehand to make his own enquiries, and if the validity of the sale is not to be affected by the incorrectness of the returns alluded to, then such returns would be of no practical value."

REDEMPTION OF ESTATES.

The Hon'ble BABU GURU PROSHAD SEN asked—

Will the Government be pleased to state what is the number of estates that had to be redeemed under section 10 of the Estates Partition Act [Act VIII (B.C.) of 1876]? What amount has been received by Government on account of these redemptions? Whether this amount has not been kept separate from the ordinary revenue; whether it has been invested; and whether the yearly income from the investment is not more than the annual land revenue which Government has lost?

The Hon'ble MR. FINUCANE replied:—

"It would seem that the section referred to by the Hon'ble Member is 11 and not 10. In the Annual Land Revenue Administration Report of the Board of Revenue, a publication that can be bought by the public, the number of estates redeemed up to date, the Government revenue on the same, and the price realized, are given. The figures up to the end of 1895-96 are given on page 13 of the Land Revenue Administration Report for that year, and are as follows:—

Number of estates	2,620
Government revenue	Rs. 1,312
Price realised	„ 37,329

"The amount realised is not kept separate from the ordinary revenue and is not invested."

[*Babu Guru Proshad Sen; Mr. Bolton; Babu Surendranath Banerjee.*]

MOTI LAL'S CASE.

The Hon'ble BABU GURU PROSHAD SEN asked—

Has the attention of Government been drawn to an article in the *Amrita Bazar Patrika* newspaper, headed "The case of Moti Lal," published in the issue of that newspaper dated the 9th January, 1897? Will the Government be pleased to order an enquiry into the truth or otherwise of the statements contained in a memorial of Moti Lal, said to have been submitted by him to Government, about the conduct and proceedings of Mr. Lyall, the Subdivisional Officer of Siwan, in connection with this case?

The Hon'ble MR. BOLTON replied:—

"The attention of the Government has been drawn to the article referred to, and an enquiry has been made. The allegations made against the Subdivisional Officer in the Memorial submitted to Government by Moti Lal appear to be for the most part without foundation, but as charges are still pending against the Memorialist for fraud in connection with stamps, the Lieutenant-Governor will not for the present pass orders on his petition."

ALLEGATIONS AGAINST THE COMMISSIONER OF BURDWAN.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

(*a*) Whether the attention of the Government has been called to the letter quoted in the margin which has been reproduced in several newspapers, and whether having regard to the allegations made therein, the Government will be pleased to make an enquiry and state the facts of the case? If the Government has already enquired into the case and passed orders, will the Government be pleased to communicate to the Council the result of the enquiry and the orders passed?

To—His Honour the Lieutenant-Governor of Bengal.

May it please Your Honour,—I beg most respectfully to tender resignation, under section 27A (1) of the Municipal Act, of my post of Chairman of the Kalna Municipality on account of the unnecessarily harsh and insulting manner with which the Commissioner of the Burdwan Division, Mr. C. E. Buckland, C.I.E., was pleased to treat me during his inspection of the Municipality on the 6th January, 1897.

I have the honour to be, Your Honour's most obedient servant, Suriya Narayan Sarbadhikari, Chairman of the Kalna Municipality.

[*Babu Surendranath Banerjee ; Mr. Risley.*]

(*b*) Is it the case that the Municipal Commissioners of Kalna, at a meeting held on the 12th January last, recorded a Resolution expressing their deep regret at the resignation of their Chairman, Babu Suriya Narayan Sarbadhikari, "especially," to quote the words of the Resolution, "as the resignation is due only to the harsh and insulting treatment received at the hands of the Divisional Commissioner during his inspection of the Municipal Office," and that at that meeting they further recorded a Resolution that the "Commissioners as a body felt it a deep humiliation at the improper treatment of their Chairman by the Divisional Commissioner"? Has the Government received a copy of this Resolution which by the terms of the Resolution of the Commissioners was to have been forwarded to the Local Government through the proper channel? If so, will the Government be pleased to state what action has been taken upon it?

The Hon'ble MR. RISLEY replied:—

"The papers of the case are laid upon the table. The Commissioner of Burdwan absolutely denies having treated the Chairman of the Kalna Municipality in an 'unnecessarily harsh and insulting manner,' and the Magistrate of Burdwan, who was present during the inspection, did not observe anything which could be so construed. In his letter of the 2nd February, Mr. Buckland expresses his regret that his criticisms on the municipal administration should have been regarded by the Chairman as unduly severe, and gives an assurance that nothing personal was intended. It was clearly the Commissioner's duty to point out any shortcomings in the municipal administration. This being so, the Lieutenant-Governor will await a further communication from the Chairman before accepting his resignation."

No. 105M, dated Chinsura, the 2nd February, 1897.

From—C. E. BUCKLAND, ESQ., C.I.E., Offg. Commissioner of the Burdwan Division,
To—The Secretary to the Government of Bengal, Municipal Department.

I HAVE the honour to forward, for the orders of Government, a copy of a letter, No. 449M, dated 25th—26th January, 1897, from the Magistrate of Burdwan, enclosing a communication from the Chairman of the Kalna Municipality, resigning his appointment as Chairman.

2. I absolutely deny that I treated the Chairman in an "unnecessarily harsh and insulting manner." It was my duty, in the course of my inspection to point out plainly that the collections were bad and that the arrear balance were high; also that the arrangements made by the Municipality for preserving the purity of the water-supply of the town were altogether insufficient. A copy of my inspection note, dated the 6th January, 1897, is enclosed. I regret that my criticisms on the municipal administration in these matters should have been regarded as they have been by the Chairman, and I am willing to assure him that nothing personal was intended. He gave me at the time no reason whatever to suppose that his feelings were wounded, either at the office or in our walk through the town.

3. It will be observed that the Magistrate of Burdwan, who was with me on the occasion, saw nothing in my remarks to justify the construction put upon them by the Chairman.

4. I beg to recommend that the Chairman's resignation be accepted.

No. 449M, dated Burdwan, the 25th—26th January, 1897.

From—W. DUNBAR BLYTH, ESQ., Magistrate of Burdwan,
To—The Commissioner of the Burdwan Division.

I HAVE the honour to forward a copy of letter No. 186 of the 13th instant, from the Chairman of the Kalna Municipality, together with a copy of the minutes of a meeting of the Commissioners held on the 12th idem, together with the resignation (in original) submitted by Babu Surya Narayan Sarvadhikari of his appointment as Chairman of that Municipality.

2. I heard you finding faults with the arrears in collections, and also with the absence of arrangements for preserving from pollution those tanks which had been nominally set aside for the supply of drinking water for the town, but I did not observe anything which could be construed into treating the Chairman "in a harsh and insulting manner."

Inspection Report on the Kalna Municipality.

VISITED the Kalna Municipality. Babu Surya Narayan Sarvadhikari Chairman. He is also a medical practitioner. The drainage scheme of part of the town has been once submitted to the Sanitary Engineer, and returned by him for an opinion as to the area to be drained: it will now be resubmitted very shortly: no estimate has yet been prepared. I am afraid that the Municipality is bent on too ambitious a scheme. The municipal income is

about Rs. 8,000 (excluding latrine fees), so that it seems out of the question to go in for a drainage scheme costing a large sum. A much simpler scheme for letting off by culverts under roads all the water that collects on the higher land is all that is required. As to the burning ghâts, I am glad to say that the matter has been settled, as both the burning ghâts (1) for the fair-weather, (2) for the monsoon, are now to be regulated under section 259. The other points noticed by Mr. Bourdillon in June, 1895, have been receiving attention.

I looked into the collections under the head "Tax on persons and for latrine fees." A statement of the collections, demands and arrears is attached. It is evident that the collections are not good and that the arrears are too high. Much greater attention must be paid to collecting properly. As to water-supply, I am told that there are five tanks set apart for drinking water, named:—

Baruipara	...	...	...	(Municipal.)
Kasaripara	...	...	...	(Ditto.)
Samajdighi	...	...	...	(Burdwan Raj.)
Laldighi	...	...	...	(Ditto.)
Mandopakhur	...	...	...	(Benode Lal Sen's.)

These five tanks are not watched by chaukidars. No prosecutions are ever instituted for soiling these tanks. It seems to me that the administration of the water-supply is very lax, and the Municipality should do much more to preserve the purity of the water. It is all nonsense to tell me that the order of the Municipality that certain tanks are to be preserved for drinking water is never disobeyed. I saw some of these tanks. The Laldighi looked fairly good. The Baruipara tank is very bad. The Samajdighi is very large. There was much dirt of animals on the bank. In fact there is no real attempt made to keep the water clear. A chaukidar should be appointed for each tank to enforce the notice prohibiting bathing, washing, &c., and to keep animals off the bank. The tanks should also be fenced.

There are 248 tanks in all, of which 46 are classed as wholesome and 202 as unwholesome. I see nothing to prevent anybody in the municipality from drinking from any of these sources of supply if they choose to do so.

There are two sets of public latrines, and a third has been sanctioned. They are cleared by sweepers, and the night-soil removed in carts. The trenching-ground is 1½ mile off. There are 16 sweepers in the town altogether. The town was as clean as any I have seen. I spoke also to the Chairman of the importance of preventing the pucka drains from being built over by encroachments. *No permanent structure* over the drains should be allowed, and all in existence should be removed by due process. If such little "bridges" are allowed, it becomes impossible to clear the drains properly.

KALNA;
The 6th January, 1897.

C. E. BUCKLAND,
Officiating Commissioner.

stract statement showing demand, collection, remission, and outstanding balance of tax upon persons and latrine fees levied within the Kalna Municipality during the first three quarters of 1896-97.

PARTICULARS.	DEMAND. 1st quarter of 1896-97.	2nd quarter of 1896-97.	3rd quarter of 1896-97.	Total of 1st three quarters of 1896-97.	Total collections during first three quarters of 1896-97, as per quarterly statement.	Total remissions granted during first three quarters of 1896-97.	Outstanding balance on close of 31st December, 1896.	REMARKS.
1	2	3	4	5	6	7	8	9
Tax upon persons.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	(a) This amount shows total collection remitted to treasury, besides Rs. 115- on account of collection on 31st December, 1896 remained in hand of tax daroga and credited on 2nd January 1897, hence reducing the actual outstanding on close of 31st December, 1896 Rs. 891-1-9.
Circle No. I	701 15 0	695 12 6	697 3 0	2,094 14 6				
,, No. II .. .	354 14 3	350 1 9	349 1 3	1,054 1 3				
,, No. III	361 7 0	349 14 6	349 12 6	1,051 2 0				
Total of Municipality...	1,418 4 3	1,395 12 9	1,396 0 9	4,200 1 9	(a)3,085 8 6	196 10 6	1,007 14 9	(b) This amount shows total collection remitted to treasury, besides Rs. 50 on account of collection on 31st December, 1896 remained in hand of tax daroga and remitted on 2nd January 1897, reducing the actual outstanding on close of 31st December, 1896 to Rs. 304
Latrine fees under section 320.								
Circle No. I	255 4 6	254 5 6	249 7 6	759 1 6				
,, No. II	121 6 6	121 2 0	120 12 0	363 4 6				
,, No. III ..	124 1 3	123 11 8	123 9 9	371 6 3				
Total of Municipality...	500 12 3	499 2 9	493 13 3	1,493 12 3	(b)1,101 15 6	36 11 9	355 1 0	

S. N. SARVADHIKARI,
Chairman.

KALNA MUNICIPAL OFFICE;
The 6th January, 1897.

No. 114M, dated Chinsura, the 6th February, 1897.

From—C. E. BUCKLAND, ESQ., C.I.E., Offg. Commissioner of the Burdwan Division,

To—The Secretary to the Government of Bengal, Municipal Department.

WITH reference to your letter No. 615M, dated 5th February, 1897, calling for certain papers connected with the resignation tendered by Babu Surjya Narain Sarbadhikari of his office as Chairman of the Kalna Municipality, I have the honour to submit herewith the papers in question, and to express my regret that, contrary to my express orders, my office should have omitted to forward them with my letter No. 105M of the 2nd instant.

No. 186, dated Kalna, the 13th January, 1897.

From—BABU SURJYA NARAIN SARBADHIKARI, Chairman of the Kalna Municipality,

To—The Magistrate of Burdwan.

IN pursuance of the provisions of section 27A (1) of the amended Bengal Municipal Act, I have the honour to forward herewith an application of my resignation from the office of Chairman of the Kalna Municipality, and to request that you will be kind enough

to forward the same to the Local Government for acceptance. A copy of the minutes of the proceedings of the Municipal Commissioners, passed at a special meeting held on the 12th instant, is herewith enclosed. As the Municipal Commissioners have expressed their willingness in that meeting that a copy of their proceedings recorded therein should accompany my application of resignation to Government, I beg to solicit, on behalf of the Municipal Commissioners, that you will be so kind as to forward the enclosed copy of the minutes of the proceedings of the said meeting, along with my application of resignation, to the Local Government.

A Special Meeting of the Commissioners of the Kalna Municipality was held on 12th January, 1897.

PRESENT:

Babu Mohendra Nath Singh	...	*Vice-Chairman.*
„ Aghore Nath Chatterjee	...	*Members.*
„ Ram Lal Mukerjee	...	
„ Madhab Chand Mehera	...	
„ Bidhu Bhusan Mukerjea	...	
„ Bunwari Lal Biswas	...	
„ Nilmoni Mukerjea	...	
„ Taradhone Bhattacharjee	...	
„ Durga Churn Ganguly	...	
Sheik Babulla	...	

1. The Vice-Chairman presided in the absence of the Chairman.

2. This meeting has been convened at the request of the Chairman, Babu Surjya Narain Sarbadhikari, to forward his letter of resignation of his office of Chairman of the Kalna Municipality.

3. Read his resignation letter addressed to His Honour the Lieutenant-Governor of Bengal.

4. The Commissioners deeply regret at the resignation of Babu Surjya Narain Sarbadhikari who has been serving this Municipality as its worthy Chairman for a good many years with ability, honesty, efficiency, and devotedness to the satisfaction of the public as well as of the superior authorities, especially as the resignation is due only to the harsh and insulting treatment received at the hands of the Divisional Commissioner, Mr. C. E. Buckland, C.S., C.I.E., during his inspection of the Municipal Office on the 6th January last.

5. The Commissioners as a body feel it a deep humiliation at the improper treatment to their Chairman by the Divisional Commissioner.

6. Resolved that a copy of the proceedings of this meeting be annexed to the Chairman's letter of resignation, and that they be sent to the District Magistrate for forwarding them to the Local Government through proper channel.

MOHENDRA NATH SINGH,
Vice-Chairman, Presiding.
RAM LAL MUKERJEA.
BUNWARI LAL BISWAS.
BIDHU BHUSAN MUKERJEA.
TARADHONE BHATTACHARJEE.
DURGA CHURN GANGULY.
AGHORE NATH CHATTERJEE.
SHEIK BABULLA (in Bengali).
NILMONI MUKERJEA.
MADHAB CHAND MEHERA (in Bengali).

Dated Kalna, the 10th January, 1897.

From—SURJYA NARAIN SARBADHIKARI, Chairman of the Kalna Municipality,

To—His Honour the Lieutenant-Governor of Bengal.

MAY IT PLEASE YOUR HONOUR—

I beg most respectfully to tender resignation of my post of Chairman of the K Municipality on account of the unnecessarily harsh and insulting manner with which th Commissioner of the Burdwan Division, Mr. C. E. Buckland, C.S., C.I.E., was pleased to treat me during his inspection of the Municipality on the 6th January, 1897.

MURRAY TRUST BILL.

The Hon'ble Mr. Finucane presented the Report of the Select Committee on the Bill to enlarge the scope of the Charitable Trust created by the Will of the late Mrs. Sally Murray, and moved that the Report be taken into consideration. He said:—

"The Select Committee met and their report was in circulation and had been in the hands of Hon'ble Members for some time. The Committee had no changes to propose in the Bill, and, as I believe there can be no objection to its provisions, I now move that the Report be taken into consideration."

The Motion was put and agreed to.

The Hon'ble Mr. Finucane also moved that the Bill be passed.

The Motion was put and agreed to.

PUBLIC DEMANDS RECOVERY ACT, 1895, AMENDMENT BILL.

The Hon'ble Mr. Finucane also presented the Report of the Select Committee on the Bill to amend the Public Demands Recovery Act, 1895. He said:—

"The Select Committee met on numerous occasions and carefully considered the provisions of the Bill. Their Report has only just been circulated, and it is proposed at the next meeting to take the clauses of the Bill into consideration, and I hope that on that occasion the Bill will also be passed."

CHUTIA NAGPUR TENANCY BILL.

The Hon'ble Mr. Grimley moved that the Bill to regulate the enhancement of rents, the commutation of predial conditions or services, and the registration and resumption of intermediate tenures, in parts of Chutia Nagpur be referred to a Select Committee consisting of the Hon'ble Sir Charles Paul, the Hon'ble Mr. Risley, the Hon'ble Mr. Finucane, the Hon'ble Mr. Wilkins, the Hon'ble Mr. A. M. Bose, the Hon'ble Rai Eshan Chundra Mittra Bahadur, the Hon'ble Mr. M. S. Das and the Mover. He said:—

"I have already given a brief sketch of the land-question in Chota Nagpur from the earliest time when the Kols cleared the jungle and became the first cultivators of the soil down to the year 1887, and with your permission, Sir, I will now resume the story. In that year the Mundas and Uraons, who had been most persistent in memorialising Government, began to withhold payment of rents, asserting the existence of a decree which had been granted by the Home Government, but suppressed by the authorities in India, to the effect that they were the maliks of the soil and in no way bound to pay rent through any intervenor, but direct to Government. This movement seems to have been made by members of the German Lutheran Church, who at the same time presented a petition to the heads of that Mission requesting their assistance in support of their claims. When the Missionaries declared their inability to support them, they took umbrage and threatened to sever their connection with the Mission, and began to abuse the Missionaries, and went so far as to accuse them of having, in collusion with the authorities, stolen and secreted the decree. The ringleaders of the movement then proceeded to call meetings

in order to induce the people to secede from the Church, to collect subscriptions, and to excite them to take possession of the majhihas land.

"The agitation gave much anxiety to the local authorities, but was eventually checked and kept under until the beginning of the cold season of 1889, when the unsettled relations between the Kols and their landlords again began to attract attention. This time, however, the excitement arose out of the action of Roman Catholic converts, who were reported to be moving about the district in large bands and compelling people to become Christians by cutting off their *chundi* or topknot of hair, as well as by threats of damage to their crops. The rapidity with which the so-called conversion of vast multitudes was effected caused much alarm in the minds of the zamindars, who began to fear for their crops as the harvest season was at hand, and some disturbances took place, and the aid of the Military Police had to be called in and various other repressive measures were resorted to. An enquiry was made into the cause of the agitation, and the conclusion arrived at by Government was that the spirit of antagonism between the landlords and raiyats was so strong and deep-rooted, and so generally diffused throughout the district, that there was no prospect of the parties arriving by themselves at any amicable settlement. The fault of the zamindars was that of the Dutch—in giving too little and asking too much—while the raiyats in some parts were even worse, ignoring the zamindars, refusing to pay rent, declining to cultivate the majhihas lands or to render any kind of service, and seeking to go back several centuries and revert to a time when Rajas and rents were unknown. In order to bring about a *modus vivendi* between the parties, it became necessary to notify to zamindars that they would not be permitted to exact labour from their tenants without any limits whatever, and to warn the latter of their unreasonable conduct in refusing to render service really due; to this end, in my capacity as Commissioner, I issued a Proclamation drawing general attention to the custom of the country as recognised by Government and the Courts, and warning zamindars of the penal consequence of forcibly exacting labour in excess of the amount prescribed by custom, and urging the raiyats to perform their customary tasks willingly and ungrudgingly. An officer was also deputed to make enquiries in certain of the villages in the disaffected parts, as to the character and extent of these disputes, but these measures, though effectual in restoring order and in showing both parties that their claims were receiving attention, could not be expected to have a lasting

result. In the meanwhile, I was in correspondence with Government as to the best means of bringing about a better understanding between landlord and tenant. I will not weary the Council by reciting the details of that correspondence, but the conclusion arrived at, with the concurrence of the Government of India, was that the object in view might be attained by extending the Bengal Tenancy Act to Chota Nagpur and giving Government the power of ordering commutation of services whenever it considered that the adoption of such a course would be calculated to avert serious dispute.

"The existing disputes chiefly fall under three heads—

(1) The assessment of rent on excess lands, that is, certain lands which the holders have somehow managed to retain possession of without payment of rent after failing to prove a bhuinhari title;

(2) the enhancement of rents paid by the tenants; and

(3) the exaction of excessive service and rakumats by the zamindar. The settlement of the first two classes of disputes will be much facilitated by the introduction of the Bengal Tenancy Act into Chota Nagpur, while, as regards the last, the main object of the present Bill is the preparation of a record of the predial services and conditions rendered by the tenants and their commutation into money rents when found necessary for the preservation of the peace of the country. The landlords mostly favour the system of services and cesses, and the raiyats are not opposed to it when they are on good terms with their zamindars. There is therefore no need for interference when the parties can arrange their differences amicably among themselves. It is not proposed, then, to make commutation absolutely obligatory, but only where the parties have recourse to the authorities to settle their disputes, or where the disputes are likely to induce a breach of the peace. This is provided for in Chapter III of the Bill. It may at first sight appear that the provisions of this Chapter trench on those of Chapter X of the Tenancy Act, and that two concurrent procedures will, if this Bill be adopted, be provided for the same object; but this is not strictly correct: for whereas Chapter X of the Tenancy Act requires a survey to precede the record of rights, a survey is not indispensable under Chapter III. Where there has already been a regular survey, as in the Khalsa villages of the Chota Nagpur estate in the Lohardaga district, in the Barkagarh estate in the same district, and in the Dhanwar estate in Hazaribagh, a fresh measurement will be unnecessary. It will

equally not be required where there is no difference of opinion between the zamindar and the raiyats as to the quantity of land held, whether such quantity is expressed in bighas or acres, or in the local standard of annas, powas, khuris, or kats. As to the rates, conditions, and predial services, the Revenue Officer can certainly ascertain and enter these in the record without measuring the land. It would undoubtedly be an advantage to have a survey before a record is made, but the survey would often entail a heavy cost, and it must be borne in mind that in Chota Nagpur the zamindars and tenants are comparatively very poor, and that few of them would be able to afford the expenditure. The record of existing rents is indispensable, because it is . . . . in the Bill that in commuting predial conditions and services, the Revenue Officer shall limit the money value of them to one-fourth the existing rent paid by each tenant concerned, a limit of this kind being necessary in order to prevent the incidence of commutation falling heavily on raiyats with small rentals. Where there are chronic disputes as to the existing rents, while it will be the duty of the Revenue Officer to do his best to ascertain and record what those rents are, it is not necessary to make any provision in the Bill for the determination of new, fair and equitable rents. Where such a course is found necessary, the provisions of the Tenancy Act should be followed. In the present Act a distinction is maintained between executive proceedings and suits, appeals in the former being dealt with by Revenue Officers, and in the latter by Judicial Officers, and it has been thought necessary to preserve a like distinction as regards the proceedings under this Chapter. While ordinarily an appeal will lie to the Commissioner, and both the Commissioner and the Board have powers of revision, the Bill provides that, where any question of title or status or right of possession to land is at issue, an appeal shall lie from the order of the Commissioner to the High Court. Section 16 of the Bill provides for the defraying of the costs of commutation proceedings and follows section 114 of the Tenancy Act, with the difference that it authorises the Revenue Officer to require a deposit in advance from the person applying for commutation.

"Chapter 11 of the Bill is a reproduction with a slight modification of sections 19 and 20 of the present Act, which prescribe the incidents as regards liability to enhancement of certain tenures peculiar to Chota Nagpur. The holders of *khuntkati* tenures are men whose ancestors by their own

exertions cleared the forest by cutting away the *khunt* or stumps of trees, and brought the land into cultivation. Korkar, which is also known by the other terms mentioned in section 5, is low rice land which has been prepared from high land by the expenditure of much labour. All these lands have special privileges as regards liability to enhancement of rent. Take Korkar for instance. The rent cannot be enhanced except under the terms of a written contract, or in accordance with the custom of the village. But in practice it is difficult to prove what the general custom of a village is, and therefore it is proposed to alter the law by providing that, where the custom cannot be ascertained in a particular village, the custom in the neighbouring village may be considered.

"Chapter IV relates to the registration and resumption of intermediate tenures, which are defined in Chapter I to mean a dependent taluk, and any other permanent or heritable interest in land intermediate between the zamindar and the cultivator and to include a resumable tenure. A definition is given of a 'resumable tenure' so as to include a large class of tenures peculiar to Chota Nagpur, which owe their origin to grants made by the Rajas, and which are held conditionally on the survival of a male heir of the original grantee. The Chapter has been added to the Bill with a view to remove difficulties under which zamindars and tenure-holders in Chota Nagpur both labour. The matter is somewhat complicated, but it may serve to elucidate it if I quote from a description of this Chapter which I gave as Commissioner in a letter addressed to Government.

"The zamindar requires that all transfers of under-tenures within his zamindari should be registered in his sarishta, so that he may have no difficulty in finding out the person who is responsible to him for the rent of the under-tenure. Section 34 of Act I (B.C.) of 1879 arms him with a very efficacious method of enforcing registration of transfers by succession or inheritance. This section can be taken advantage of by any one obtaining possession of a taluk or tenure by succession or inheritance only, be the taluk or tenure one saleable under section 123 or one in which the right and interests only of the tenure-holder are saleable under section 124. Section 35 would seem to indicate that the transfer by private sale of a transferable tenure or taluk, saleable absolutely under section 123, can also be registered under section 34; but in the case of tenures held conditionally on the survival of male heirs of the original grantees,

transfer by private sale cannot be registered under sections 34 and 35, even if the transferees be willing to have their names registered, unless the zamindar chooses to do so on receipt of a large bonus in the shape of a *salami*. Again, while mukarrari and other permanent tenures, which are saleable under section 123, when sold for arrears of rent, are sold free of all encumbrances created by the tenure-holder, the effect of the existing law is that jagirs and other tenures which are held conditionally on the survival of male heirs of the original grantees, and which are admittedly of an inferior status when they fall into arrears, cannot be sold free of all encumbrances by the grantees or their male heirs. In such tenures only the rights and interests of the grantees or their male heirs are saleable. The result of this anomaly is that, while a zamindar can, under the existing law in Chota Nagpur, very easily recover arrears of rent due by a permanent transferable tenure, by putting it up to sale in execution of a decree for arrears of rent, and selling it free of all encumbrances created by the tenure-holder, he has no such means of recovering his arrears from the holders of tenures held conditionally on the survival of male heirs, for it very often happens that, knowing the defect in the existing law, the grantees or their male heirs let out their tenures in sub-lease or mortgage, reserving only a nominal rent, which is often less than the rent they have to pay to the superior landlord. For instance, A, the jagirdar of a tenure, has to pay an annual rent of Rs. 100 to his superior zamindar, but he lets out his whole tenure either in mukarari or zaripeshgi for a nominal rent of Rs. 5 to B. B enjoys the rents and profits derived from the tenure and pays only Rs. 5 per annum to A. But A defaults in paying the Rs. 100 payable to his superior landlord. The superior landlord sues A and obtains a decree against him and puts up his tenure to sale under section 124 of Act I (B.C.) of 1879. No one comes forward to purchase the tenure, for it is only the rights and interests of A which can be sold under that section, and the purchase of these means the acquisition of the right of receiving Rs. 5 per annum from B, with a liability of paying Rs. 100 per annum to the superior landlord. To remove this anomaly in the rules framed for carrying on the sale of the rights and interests of an under-tenure-holder of the class referred to in section 124 of Act I (B.C.) of 1879, under instructions of the Board of Revenue, provision was made for making B, or any other sub-tenure-holder under him, a party to the suit to be instituted by the zamindar for the recovery of the rents due to him from A. It was held that

when section 124 authorised the sale of the right and title of any person in the tenure, the rights and interests of any subordinate tenure-holder under A can be sold under that section, but that, in order to enable the zamindar to effect such sale, it is essential that he should make all such sub-tenure-holders parties to the suit to be instituted by him against A. The High Court of Calcutta, however, has held that such a procedure is perfectly illegal and is not authorized by law.

* * * * * * *

"A purchaser can be easily ousted from his holding in the event of a collusion between the zamindar and the original jagirdar or his male heirs. The purchaser has no right to apply for the registration of his name in the zamindar's sarishta, neither does the zamindar consider it safe on his part to admit him to registration, for, by doing so, he endangers his right of resumption in the event of a failure of the male heirs of the original grantees. After having once parted with their interests, the original grantees or their heirs cease to have any interest in having their names registered in the event of succession or inheritance in their families, and if the zamindar can induce the heirs of the original grantees to sit idle and keep themselves away, the zamindar can very easily obtain khas possession of the tenure. The power given by section 34 of Act I (B.C.) of 1879 is a tremendous lever in the hands of the zamindar, and can be exercised in a way which can cause ruin to the purchaser of a tenure. The object of Chapter IV of the proposed Bill is to remove the difficulty which the zamindar now labours under in the matter of the recovery of his rents, and at the same time to save purchasers from the inevitable ruin which awaits them whenever there is a succession in the families of the original grantees and the heirs of the latter are bought off by the zamindar. It will make all tenures held conditionally on the survival of male heirs of the original grantees freely transferable, as any other permanent under-tenure saleable under section 123 of Act I (B.C.) of 1879, and will give the purchasers the privilege of having their names registered in the zamindar's sarishta and of enjoying their tenures so long as there are male heirs of the original grantees, and so long as they pay the rents due to the zamindar with regularity, and at the same time of preserving the zamindar's right of resumption on failure of male heirs of the original grantees intact.

"With this explanation of the provisions of the Bill, I beg to move that it be referred to a Select Committee."

[*Babu Guru Proshad Sen; Mr. Das; Sir Charles Paul; Mr. Risley.*]

The Hon'ble Babu Guru Proshad Sen said:—"I do not understand why it should be necessary for the Government to take more powers under this Bill. Ordinarily parties have got the right to move for commutation of services under section 7. It is not the case that the raiyats in Chutia Nagpur are very weak and unable to defend their rights. From the Hon'ble Member's own statement it appears that the Missionaries have taken the raiyats by the hand and are fostering a spirit of independence among them and reviving the traditions of olden times when each person was in a manner the proprietor of the soil which he cultivated, and have encouraged aspirations which are not likely to be realised, and, further, it appears that all the Missions in Chutia Nagpur—the Anglican, the German Lutheran, and the Roman Catholic—are supporting the cause of these Kols. If therefore they thought that commutations would be advantageous to them, they would move for it of themselves. I do not therefore understand why it is necessary to take further powers under section 8 of this Bill."

The Hon'ble Mr. M. S. Das said:—"As the Bill is going before a Select Committee, they will consider the point which has been raised by the Hon'ble Member. I understand that there may be cases in which it may be necessary to exercise such a power in the interests both of zamindars and tenants. But as the learned Advocate-General is here, I would ask whether the provisions of section 14 can legally find a place in this Bill: whether this Legislature has the power to take away the jurisdiction of the Civil Courts?"

The Hon'ble Sir Charles Paul said:—"As this Bill is to be referred to a Select Committee of which I am to be a member, the question can be considered there. I am not prepared to give an opinion at once."

The Hon'ble Mr. Risley said:—"The Hon'ble Member who spoke last but one has challenged the right of the Government to intervene between zamindars and raiyats in respect of the commutation of predial conditions or services. Having some personal experience in the Chutia Nagpur Division, I can say with confidence that if there is one place in the world where it is necessary to resort to legislation to give a right of intervention in such cases, it is in Chutia Nagpur, where you have a class of raiyats who possess a power of combination and are well able to take care of themselves; and they have been in the past, though I hope not in the future, to some extent supported by the missionaries.

[*Mr. Risley; Mr. Grimley; The President.*]

If the parties would by combined action come to a settlement, there may be no reason for the Government to exercise the power here proposed to be given. A further reason is that in all the districts of that division the arrangements relating to land are in a state which can only be described as closely approaching to chaos. I know of estates in which there is absolutely no system of land registration, and the unit upon which rent is ascertained is not the bigha or the acre, but by the maund of seed: the people paid their rents in maunds of paddy or other produce. In my memory in certain groups of villages the area of land represented by this arbitrary seed unit varied from 7 to 35 bighas, and the mere fact of the existence of such a state of things is conclusive proof of the necessity for a power of interference to settle disputes which in that part of the country often end in actual bloodshed."

The Hon'ble Mr. Grimley said:—"I have only one word to add. I pointed out on the very first occasion on which I explained the objects and reasons of this Bill, that section 25 of the existing Act I (B.C.) of 1879, which provides for the voluntary commutation of predial conditions or services, is not found sufficient where there are serious disputes between the parties, and that it was decided after due consideration to allow the Government to intervene whenever they find it necessary to do so in order to preserve the peace of the country. That is the only reason why it is proposed to give this power."

The Hon'ble the President said:—"It is only necessary for me to say, with reference to the observation which fell from the Hon'ble Mr. Das as to the power of this Council to touch the jurisdiction of the Civil Courts, that this Bill has been introduced with the sanction of the Government of India, and is therefore quite within the powers of this Council."

The Motion was put and agreed to.

The Council adjourned to Saturday, the 27th instant.

F. G. WIGLEY,
Offg. Asst. Secy. to the Govt. of Bengal,
Legislative Department.

CALCUTTA;
The 3rd March, 1897.

Reg. No. 1027G—300—4-3-97.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met at the Council Chamber on Saturday, the 27th February, 1897.

Present:

The Hon'ble SIR ALEXANDER MACKENZIE, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.
The Hon'ble SIR CHARLES PAUL, K.C.I.E., Advocate-General of Bengal.
The Hon'ble H. H. RISLEY, C.I.E..
The Hon'ble RAI DURGA GATI BANERJEA BAHADUR, C.I.E.
The Hon'ble NAWAB SYUD AMEER HOSSEIN, C.I.E.
The Hon'ble C. E. BUCKLAND, C.I.E.
The Hon'ble M. FINUCANE.
The Hon'ble C. W. BOLTON.
The Hon'ble W. H. GRIMLEY.
The Hon'ble J. G. H. GLASS, C.I.E.
The Hon'ble C. A. WILKINS.
The Hon'ble SURENDRANATH BANERJEE.
The Hon'ble A. M. BOSE.
The Hon'ble RAI ESHAN CHUNDRA MITTRA BAHADUR.
The Hon'ble GURU PROSHAD SEN.
The Hon'ble M. S. DAS.
The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH.

PUBLIC DEMANDS RECOVERY ACT, 1895, AMENDMENT BILL.

The Hon'ble MR. FINUCANE moved that the Report of the Select Committee on the Bill to amend the Public Demands Recovery Act, 1895, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. FINUCANE also moved that the clauses of the Bill be considered for settlement in the form recommended by the Select Committee.

The Motion was put and agreed to.

The Hon'ble MR. FINUCANE said:—"The Report has been in the hands of Hon'ble Members for some time, and I hope it sufficiently explains what we have done.

"When introducing this Bill I stated that the sole object of it was to correct certain clerical errors and to supply certain omissions which had inadvertently occurred in the Act of 1895, so as to give effect to the intention of the framers of that Act. It was then proposed that instead of a small amending Bill an altogether new Bill should be introduced embodying all the provisions of the law for recovery of public demands, and in reply to that proposal, I said that the object and intention of this Bill was not to re-open discussion on the substantive law, or to make a new law on the subject, but merely to give effect to the intention of the existing law.

"I should not have thought it necessary to occupy the time of the Council by entering into an explanation of the details of the manner in which we propose to effect the object of the Bill, or to say anything on the present occasion more than to make a formal motion, were it not that I see a formidable number of amendments on the list of business which seem to me to be based on a misapprehension of the scope of this Bill and to be entirely inconsistent with its principle, and therefore, as I shall presently submit, out of order.

"My object in doing so is not to stifle discussion, for all but one of the questions which it is proposed to raise now in an irregular manner, were fully discussed when the Act was under consideration; conclusions were deliberately come to on them, and it would be obviously most inconvenint and contrary to precedent, when a small Bill is introduced amending an existing Act, with a view to correct clerical mistakes, to permit the whole of the Act to be brought again under consideration. All that would result from allowing a procedure of this kind would be wanton waste of the time of the Council. The very same arguments would be advanced and refuted as were advanced and refuted less than two years ago (when the *personnel*, of the non-official elements of the Council, was very much the same as it now is), and with the same results.

"I think I may appeal to the Hon'ble the Advocate-General, the oldest and most experienced Member of this Council, and ask if this view be correct. If it be then the only amendment on the Bill as settled by the Select Committee in the long list of amendments before us—is the first amendment proposed by the

[*Mr. Finucane; the President.*]

Hon'ble Guru Proshad Sen. That amendment would, if carried, have the effect of omitting clauses (*c*) and (*e*) of section 6 of the Bill. These clauses are new and of little importance. By them it is proposed to make the certificate procedure applicable to the recovery of pleaders' and mukhtears' fees and costs when awarded by Revenue Officers under any law or rule having the force of law, in revenue proceedings before these officers, and where the award is final. Under the law as it stands the fees and costs in such cases, if not voluntarily paid, can be recovered only by suit in a Civil Court. The Select Committee were of opinion that the Certificate Procedure should obviously apply in these cases, and thought that it was only by an oversight that it had not been made applicable before. I admit that the clauses are new and so far inconsistent with the principle of the Bill. If they are not unanimously accepted, I am prepared to withdraw them.

"I hope in light of this explanation that all the amendments will be withdrawn, and that the Bill will be at once passed.

"If the amendments are pressed, I shall submit in respect of each of them *seriatim* that it is out of order and have to give my reasons."

The Hon'ble THE PRESIDENT said:—"I may say at once in connection with this Bill that I cannot allow the substantive law which was settled so recently to be re-opened. It is entirely out of order, as the Hon'ble Mr. Finucane rightly submitted, that we should travel again over the whole ground of the discussion which took place before. This Bill was introduced for certain definite limited purposes, and we have not the consent of the Government of India to re-open legislation which was settled so short a time ago and which has received the sanction of the Viceroy and is the settled law of the land. I hold, therefore, that unless it can be shown that the amendments which are on the notice paper deal with new matters which have been introduced by the Select Committee, they are out of order, and I cannot allow them to be discussed. If any Hon'ble Member can show that any particular amendment of his does not fall within the scope of the bar which I feel bound, as a matter of order, to place over these proposals, I shall be prepared to consider it; but anything which attempts to re-open the substantive law as it stands cannot be considered at all."

[*Babu Surendranath Banerjee; the President; Babu Guru Proshad Sen.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I desire, with your Honour's permission, to point out that, although the Hon'ble Member in charge of the Bill has observed that the Bill as it was introduced was intended to be a non-contentious Bill, merely giving effect to the intentions of the existing law, yet matters which are altogether outside the scope of a mere amending Act which only seeks to rectify clerical errors have found their way into the Bill. That being so, it strikes me, with all deference to the ruling of the chair, that we might perhaps travel outside the limits imposed upon us by the Hon'ble Mr. Finucane in his opening speech. With reference to precedents, I wish to point out that when the Bill to amend the Bengal Municipal Act was introduced, we were permitted to deal with sections of the Act which were referred to in the Bill as it was introduced, and sometimes even with sections which were not so referred to, and I think we ought to be permitted to follow the principle laid down by that precedent, and at any rate to deal with sections in the Public Demands Recovery Act which are included in this Bill."

The Hon'ble THE PRESIDENT said:—"I have no doubt whatever as to the Hon'ble Babu Surendranath Banerjee's particular amendment, because it would be re-opening a cardinal question which has been carefully discussed before. It is not an amendment upon any provision which has been introduced by the Select Committee. I am not, however, quite clear as to some of the amendments standing in the name of the Hon'ble Babu Guru Proshad Sen."

The Hon'ble BABU GURU PROSHAD SEN said:—"I am not particularly anxious to press my first amendment. I put it on the notice paper simply to show how the Select Committee in their report have gone beyond the terms of the reference. When this Bill was introduced into Council it was what the outside public called a "tinkering Bill," a measure which the Hon'ble Member in charge of the Bill characterised as a very small one—a non-contentious measure in which no question of principle was involved. But I submit that the clauses (*c*) and (*e*), which were proposed by section 6 of the Bill to be inserted in section 7 of the Act, do involve questions of principle. By clause (*e*) sums awarded as compensation are made recoverable under the provisions of the Public Demands Recovery Act. I have to remind the Council that though compensations are made recoverable under the Revenue Sale Laws, in the event

of a sale being cancelled even when Act VII (B C.) of 1868, introducing for the first time the Certificate Procedure, awards of compensation in sale cases under the Act were not made recoverable. Since 1868 about thirty years had elapsed, and during the whole of that period the want has not been felt of a summary power for the recovery of such compensation. It is, however, now for the first time proposed to supplement the alleged defect in the law of 1868. This is certainly open to the remark that it is perfectly new to the principle of the Bill. As, however, I am not entitled, under your Honour's ruling, to move any of the other amendments of which I have given notice, and which I consider to be much more important, I think I may as well withdraw my amendment No. 1 to omit the new clauses."

The Hon'ble THE PRESIDENT said:—"This is, as the Hon'ble Babu Guru Proshad Sen says, a tinkering Bill, and I think it was open to the Select Committee to do any additional tinkering which may have appeared necessary to them in the further examination of the law. It was not open to them to introduce any substantive legislation; but it was open to them to supply any defect or omission that they may have discovered, and in this respect I think it is open to the Hon'ble Member, if he desires to press it, to move his first amendment, which is a perfectly legitimate one. If he desires to argue this amendment, I have not the least objection."

The Hon'ble MR. FINUCANE said:—"I understand the Hon'ble Member has no objection to these provisions on the merits, and that he is willing to withdraw his amendment No. 1 with regard to them."

The Hon'ble BABU GURU PROSHAD SEN asked if the President would permit him to move his amendment No. 9, which was also an addition and which stood thus:—

"*Section 6 of the Bill.*—If the above amendments numbered (*1*) to (*6*) be lost, that the following clause be added to the proposed new section 7 of the Act, namely:—

'(*j*) any arrears of rent or cess due to a registered proprietor with regard to lands in an estate which has been surveyed and settled under the Bengal Tenancy Act, and the records kept up and mutations registered.' "

The Hon'ble THE PRESIDENT said:—"The amendment No. 9 is not a tinkering amendment. It opens up a very large question of principle. An entirely new Bill would have to be introduced after leave obtained."

[*Sir Charles Paul; the President.*]

The Hon'ble SIR CHARLES PAUL said:—"Permit me to point out that the Public Demands Recovery Act is rather in alleviation of the subject. If that Act was not passed, Government demands could be levied in a much more summary way; therefore that Act is in derogation of the rights of the Crown. The principle of the Act has been extended to Wards' Estates. To extend these provisions to demands in zamindars' estates would need the introduction of a separate Bill."

The Hon'ble the President having declared the following amendments of the Hon'ble Babu Surendranath Banerjee to be out of order, they were not brought forward:—

(*1*). *Section 6.*—That clause (*h*) in section 6 of the Bill be omitted.

(*2*). That corresponding changes be made in all sections of the Bill which refer to the aforesaid clause.

The Hon'ble the President having also declared the following amendments of the Hon'ble Babu Guru Proshad Sen to be out of order, they were not proposed:—

(*1*). *Section 6 of the Bill.*—That the new clauses (*c*) and (*e*) which it is proposed to insert in section 7 of the Act be omitted.

(*2*). *Section 6 of the Bill.*—That clause (*h*) and sub-section (*2*) of the proposed new section 7 of the Act be omitted.

(*3*). *Section 6 of the Bill.*—That the proviso appearing after clause (*h*) of the proposed new section 7 of the Act be placed after clause (*g*) of that section.

(*4*). *Section 6 of the Bill.*—That the words "or any Local Authority" in clause (*i*) of the proposed new section 7 of the Act be omitted.

(*5*). *Section 7 of the Bill.*—That the words from "in the case specified in clause (*h*) of the said section" to "the said Local Authority shall be deemed to be the decree-holder" be omitted.

(*6*). *Section 8 (1) of the Bill.*—That the words from "or to a Local Authority" to "as the case may be" be omitted.

(*7*). If the above amendments be lost, that the words "and there shall be payable in respect thereof a court-fee of the same amount as is payable under the Court-fees Act for the time being in force in respect of a plaint for the recovery of a sum of money equal to that stated in such requisition," in section 9 (*2*) of the Act, be repealed.

[*The President; Mr. Finucane.*]

(*8*). If the last foregoing amendment be carried, that the words "together with the cost of any court-fee paid in respect of such requisition under sub-section (*2*) of this section," in section 9(*3*) of the Act, be repealed.

(*9*). *Section 6 of the Bill.*—If the above amendments numbered (*1*) to (*6*) be lost, that the following clause be added to the proposed new section 7 of the Act, namely:—

"(*j*) any arrears of rent or cess due to a registered proprietor with regard to lands in an estate which has been surveyed and settled under the Bengal Tenancy Act, and the records kept up and mutations registered."

(*10*). *Section 12 of the Bill.*—That the words "one-twentieth" or the words "five *per cent.*" be substituted for the words "one-tenth" in clause (*b*) of the proposed new section 21 of the Act [corresponding with clause (*b*) of the existing section 19 of the Act.]

(*11*). *Section 16 of the Bill.*—That the following portion of this section be omitted, namely:—

"the words 'Local Authority, Manager or Revenue Authority' shall be, and be deemed to have always been, substituted for the words 'other than a Certificate Officer, or from a manager appointed by the Court of Wards.'"

(*12*). *Section 17 of the Bill.*—That, instead of inserting the words "or as the case may be" in Form No. 2 in the Schedule to the Act, the words "or to A, B, a Ward of Court, or a minor, or a lunatic, by his next friend C. D." in that Form should be repealed.

The Hon'ble Mr. Finucane then moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

The Council adjourned to Saturday, the 20th March, 1897.

Calcutta;
The 22nd March, 1897.

F. G. WIGLEY,
Offg. Asst. Secy. to the Govt. of Bengal,
Legislative Dept.

Reg. No. 1099G—200—22-3-97.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met at the Council Chamber on Saturday, the 20th March, 1897.

Present:

The Hon'ble SIR ALEXANDER MACKENZIE, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.
The Hon'ble SIR CHARLES PAUL, K.C.I.E., Advocate-General of Bengal.
The Hon'ble H. H. RISLEY, C.I.E.
The Hon'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.
The Hon'ble NAWAB SYUD AMEER HOSSEIN, C.I.E.
The Hon'ble M. FINUCANE.
The Hon'ble C. W. BOLTON.
The Hon'ble W. H. GRIMLEY.
The Hon'ble C. A. WILKINS.
The Hon'ble SURENDRANATH BANERJEE.
The Hon'ble RAI ESHAN CHUNDRA MITTRA, BAHADUR.
The Hon'ble GURU PROSHAD SEN.
The Hon'ble M. S. DAS.
The Hon'ble A. H. WALLIS.
The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH.

PROVINCIAL SERVICE.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

I have the honour to call attention to the fact that in the North-Western Provinces there are eight members of the Provincial Service, who hold substantively or officiate in posts which are ordinarily reserved for the Civil Service, India, listed as open to the Provincial Service. Is it the case that in Bengal there is only one member of the Provincial Service who holds an appointment ordinarily reserved for the Covenanted Service, viz., that of District Magistrate; and he, too, Mr. Batabyal, was originally a member of the Statutory Service, and has elected the Provincial Service? Having regard to

the all-but-total exclusion of members of the Provincial Service from the posts listed as open to the members of that service, will the Government be pleased to take such steps as to the Government may seem fit, with a view to give effect to the recommendations of the Public Service Commission in that behalf?

The Hon'ble MR. BOLTON replied:—

"The Hon'ble Member asked a similar question on the 22nd July, 1893, which was answered by the Hon'ble Mr. Cotton. It was then explained, and the explanation still applies, that the effect of the notification of this Government published in the *Calcutta Gazette* of the 5th April of that year, specifying the posts ordinarily reserved for the Civil Service of India to which Members of the Provincial Service can be properly appointed, was qualified by paragraph 6 of the Resolution of the Government of India, No. $\frac{9}{1342}$C. Rev., dated the 21st April 1892, which declared that until all the existing Statutory Civil Servants were provided for either by promotion or by amalgamation with the new Provincial Service, and until the prior claims of officers of the Civil Service of India and Commissions had been satisfied, the twenty posts thrown open to members of the Provincial Service could not be brought into the general cadre of that service. In filling up the vacancies which have since occurred these orders of the Government of India have been adhered to; and only one vacancy in the superior appointments has fallen to the Provincial Service, to which Mr. Batabyal was appointed. There are eleven Statutory Civilians, and the majority of them must still be provided with substantive superior appointments before the number of members of the Provincial Service in these posts can be increased.

"The Civil List of the North-Western Provinces and Oudh for the present quarter shows five and not eight members of the Provincial Service occupying posts ordinarily reserved for the Civil Service of India."

SOUTH SUBURBAN MUNICIPALITY.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

(*a*) With reference to the Government Notification published in the *Calcutta Gazette* of the 28th October last, regarding the sub-division of the present South Suburban Municipality, is the Government aware that such a

sub-division is at variance with the boundaries, as set forth in the Resolution of the Commissioners of the aforesaid Municipality, dated the 4th February, 1896, upon which the Government has taken action, and which runs as follows:—

"That the municipality be divided into two parts following the Diamond Harbour Road, as the common boundary of the two municipalities."

(*b*) Is the Government aware that the Resolution has the approval of the Commissioner of the Division and of the Hon'ble Mr. Bolton when he was District Magistrate of the 24-Parganas?

(*c*) Is it not the case that under section 9 of the Bengal Municipal Act, the Government can only take action in any matter affecting the sub-division of a municipality on the recommendation of the Commissioners at a meeting, and is therefore *à fortiori* bound by the terms of the recommendation?

(*d*) Is it not the case that the sub-division, as proposed in the Government Notification, takes away from the South Suburban Municipality the richest and the most populous wards and the only dispensary situated in the Municipality?

(*e*) Is the Government aware that the sub-division of the municipality, as proposed by the Government, is strongly opposed to local feeling, and that the Commissioners and the rate-payers have submitted memorials against the proposed sub-division?

(*f*) Having regard to all these considerations, will the Government be pleased to re-consider the matter and issue a Notification in accordance with the terms of the recommendation of the Commissioners?

The Hon'ble MR. RISLEY replied:—

"The Lieutenant-Governor is advised that Government is not bound by the specification of boundaries annexed to the Resolution of the Commissioners, and can proceed to subdivide the Municipality in the manner that appears most likely to conduce to good administration. The subdivision now proposed is the one best suited to the present circumstances of the Municipality; it has been duly notified, and no valid objections have been received. The Lieutenant-Governor is not prepared to re-consider the matter."

[*Babu Surendranath Banerjee; Mr. Risley.*]

PROVINCIAL BUDGETS.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

I have the honour to call attention to the remarks quoted in the margin made by the Hon'ble Mr. Bourdillon, then Financial Secretary to the Government, and to enquire whether, having regard to the fact that the budget is submitted for the consideration of the Supreme Government on the 10th March or thereabouts, it would not be possible to lay the budget before this Council before it is sent to the Government of India for final approval, with the remarks of Members of Council thereon, for the consideration of the Supreme Government?

> These budgets (Provincial budgets), after a careful examination by the Financial Department and the Secretaries of the Departments which have administrative control in each case, are compiled and forwarded to the Government of India, as a whole on the 15th January, through the Accountant-General, who, by that time, has before him the actual figures for nine months. Soon after the close of February, the actuals for two more months, or eleven in all, are available, and on or about the 10th of March, a final revised estimate for the expiring year, together with a final forecast for the year beginning on the 1st of April, are laid before the Government of India, for approval and for incorporation in the great Imperial budget for the whole of India (*vide* Council Proceedings of the 31st March, 1894).

The Hon'ble MR. RISLEY replied:—

"Under the orders of the Government of India, the Financial statement of a Local Government cannot be presented to, or discussed by, the local Legislative Council until it has received the sanction of the Government of India."

PROVINCIAL CONTRACTS.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Will the Government be pleased to state (1) the total sum which the Government of Bengal has obtained from the Provincial contracts, owing to the normal expansion of the Revenue over and above the contract figure, that is to say the amount expected to be realized to meet the expenditure; (2) the total sum which the Government of Bengal would have obtained if the contract of 1877 had been in force; (3) the total appropriations of the Government of India over and above the sums to which the Government of India was entitled under the contracts? Have these sums been restored?

[*Mr. Risley; Babu Surendranath Banerjee; Babu Guru Proshad Sen; Mr. Finucane.*]

The Hon'ble MR. RISLEY replied:—

"The Hon'ble Member will find the information which he requires in the Financial statement of 1st April, 1893, and the Financial Resolution of 10th October, 1896."

FAMINE RELIEF WORKS IN BIHAR.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Will the Government be pleased to give the names and salaries of Superintendents and Assistant Superintendents employed upon relief works in the affected tracts in Bihar?

The Hon'ble BABU GURU PROSHAD SEN asked—

Will it please Government to place on the table a list of persons, not being Government servants, who have been specially appointed for the purpose of Famine Relief in the afflicted districts of North Gangetic Bihar, as charge Superintendents and Assistant charge Superintendents, with their respective salaries and allowances?

The Hon'ble MR. FINUCANE replied:—

"The Statement called for by the Hon'ble Members is laid on the table."

Superintendents and Assistant Superintendents on Famine Relief Works in the Patna Division.

A.—NON-OFFICIAL—

District Shahabad—

	Pay.		Horse allowance.		Total.
	Rs.		Rs.		Rs.
Mr. G. C. B. Birch	200	+	100	=	300
„ D. Smith	200	+	100	=	300

District Saran—

Mr. W. C. Lang	200	+	100	=	300

District Champaran—

			Pay.		Horse allowance.		Total.
			Rs.		Rs.		Rs.
Mr. C. Still, „ J. Finzel	...	...	600	+	100	=	700
„ H. Christian	...	...	300	+	100	=	400

District Muzaffarpur—

Mr. C. C. Clare	...	...	300	+	100	=	400
„ J. C. Crozier	...	...	300	+	100	=	400
„ A. E. Gibson	...	...	300	+	100	=	400
„ B. E. Lomax	...	...	300	+	100	=	400
„ H. B. Wilcox	...	...	200	+	100	=	300

District Darbhanga—

Mr. J. Burton	...	...	300	+	100	=	400
„ C. J. Wright	...	...	300	+	100	=	400
„ W. E. Davies	...	...	200	+	100	=	300
„ C. A. Manson	...	...	200	+	100	=	300
„ H. E. Wild	...	...	200	+	100	=	300
„ C. Kelly	...	...	200	+	100	=	300

B.—OFFICIALS—

District Saran—

Mr. A. Garrett, C.S.
„ J. V. Ryan, Assistant Superintendent of Police.
„ J. C. Twidell, C.S.

District Champaran—

Mr. H. F. E. B. Foster, C.S.
„ E. E. Forrester, C.S.
„ F. Boxwell, Assistant Superintendent of Police.
„ R. Hyde, Assistant Superintendent of Police.
„ J. B. Wood, C.S.

District Muzaffarpur—

Mr. W. Y. Reily, Assistant Superintendent of Police.
„ R. Sheepshanks, C.S.
„ L. O. Clarke, C.S.

District Darbhanga—

Mr. T. M. Browne, Assistant Superintendent of Police.
„ G. P. Whalley, Assistant Superintendent of Police (on sick leave).
„ J. R. Blackwood, C.S.
„ W. B. Haycock, C.S.
„ F. Kleyn, Inspector of Police.

These officers get their grade pay + Rs. 100 horse-allowance in lieu of all travelling allowance.

C.—Subdivisional Officers, Assistant Magistrates and Joint-Magistrates engaged in Famine Work in addition to their ordinary duties.

District Shahabad—

Mr. H. L. Stephenson, Bhabua.

District Saran—

Mr. E. P. Chapman.
„ F. F. Lyall.
„ E. Lister.

District Champaran—

Mr. F. R. Roe.
„ J. H. Kerr.

District Muzaffarpur—

Mr. C. L. S. Russell.
„ J. F. Gruning.
„ A. H. Clayton.

District Darbhanga—

Mr. M. Smither.
„ C. P. Beachcroft.

These officers get their grade pay and ordinary travelling allowance.

D.—Besides the above, certain officers, whose numbers are approximately given below are employed as "Circle Officers" and "Officers in charge" of works.

Name of district.	Circle Officers.		Officers in Charge.	
	No.	Pay.	No.	Pay.
1	2	3	4	5
Shahabad	25	From Rs. 35 to Rs. 75.	5	From Rs. 35 on small works to Rs. 75 on large works: Rs. 100 in few cases.
Saran	45		15	
Champaran	75		40	
Muzaffarpur	75		30	
Darbhanga	65		55	
Total ...	285		145	

The names of these officers cannot be given: all or nearly all of them are natives of India.

The services of Deputy and Sub-Deputy Collectors and of Rural Sub-Registrars have also been utilised on famine work.

[*Babu Surendranath Banerjee; Mr. Bolton; Babu Guru Proshad Sen.*]

DISTRICT OFFICER IN KHULNA.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Is it the case that since July, 1893, no fewer than nine District Magistrates have from time to time been in charge of the district of Khulna, many of whom holding office for only a few months? Is the statement noted in the margin shewing the frequent transfers of district officers from Khulna substantially correct? Are not these frequent transfers calculated seriously to interfere with the efficiency of district administration, and will the Government be pleased to take steps to prevent them?

* Mr. Bompas, District Magistrate, from July, 1893 to October, 1893.
" Maguire, " " " October, 1893 to April, 1894.
" Bell, " " " April, 1894 to October, 1894.
" Brown, " " " October, 1894 to April, 1895.
" Fisher, " " " April, 1895 to October, 1895.
" Brown, " " " October, 1895 to March, 1896.
Since March, 1896, three Magistrates, Mr. Fisher, Mr. Phillimore and Mr. Vincent have held charge of the district one after another. Mr. Vincent, the present Magistrate, has been in charge since January last.

The Hon'ble MR. BOLTON replied:—

"For various reasons it was found necessary in the past three years to change the District Officer of Khulna as often as the Hon'ble Member mentions. The Lieutenant-Governor agrees that such frequent changes are detrimental to the efficient administration of a district, and it is the endeavour of the Government to avoid them as much as possible. The necessity for retaining the same officer at Khulna for a longer period than has been the case in recent years has not escaped the notice of the Government."

PUBLIC DEMANDS RECOVERY ACT.

The Hon'ble BABU GURU PROSHAD SEN asked—

Will the Government be pleased to state under what circumstances and under what representations it was found necessary to permit the Court of Wards to relax the stringency of the Circular orders No. 3 of May, 1892, and 8 of October, 1895, prohibiting the issue of certificates under the Public Demands Recovery Act in estates of which a survey has not been made, and to vest it with powers to use the certificate procedure even in the case of an unsurveyed estate?

The Hon'ble MR. FINUCANE replied:—

"The existing orders are in accordance with the instructions of the Government of India, which directed that Collectors should issue no certificates on the application of a Court of Wards, except where a record of rights had been made and disputes between landlords and tenants settled, *or* in estates declared by a formal order of the Board of Revenue to have a settled rent-roll and to be ripe for the application of the certificate procedure."

The Hon'ble BABU GURU PROSHAD SEN asked—

Will the Government be pleased to order a strict enforcement of these Circular orders, the last of which appears to have been issued as the result of the discussions in Council on the 3rd April, 1895?

The Hon'ble MR. FINUCANE replied:—

"The Government has no intention of further altering these orders, which are perfectly reasonable."

RAIN-GAMBLING BILL.

The Hon'ble MR. BOLTON moved for leave to introduce a Bill for the suppression of rain-gambling. He said:—

"Full enquiry has been made into the practice of rain-gambling, and the evil has been found to exist to an extent which demands early action on the part of the Government. Public bodies representing various sections of the community in Calcutta have been consulted, and opinion is strongly and almost unanimously in favour of legislation. The matter can thus be dealt with at once, and delay is neither necessary nor desirable. In view of the fact that the session of the Council is, in the ordinary course, drawing to its close, I propose to ask Your Honour to suspend the Rules, to admit of my introducing the Bill and moving that it be referred to a Select Committee. Under your order, Sir, the Bill has already been published in the *Calcutta Gazette*, with the Statement of Objects and Reasons, and copies have been placed in the hands of Hon'ble Members. Its provisions are brief and simple, and I venture to anticipate that they will not provoke prolonged discussion in the Council or in the Select Committee."

The Motion was put and agreed to.

[*Mr. Bolton; the President.*]

The Hon'ble MR. BOLTON also applied to the President to suspend the Rules of Business for the purpose of introducing the Bill and referring it to a Select Committee.

The Hon'ble THE PRESIDENT having declared the Rules suspended—

The Hon'ble MR. BOLTON introduced the Bill and also moved that it be read in Council.

The Motion was put and agreed to.

The Bill was read accordingly.

The Hon'ble Mr. Bolton also moved that the Bill be referred to a Select Committee consisting of the Hon'ble Mr. Wilkins, the Hon'ble Babu Surendranath Banerjee, the Hon'ble Mr. M. S. Das, the Hon'ble Mr. Wallis, the Hon'ble Sahibzada Mahomed Bakhtyar Shah and the Mover, with instructions to report in one week. He said:—

"Sir, the Bill of which I am in charge is a small, but not unimportant, measure. It seeks to put an end to a form of public gambling which has attained considerable magnitude, which has already done much harm among certain classes of the community in Calcutta, and which tends to affect larger and larger numbers. I trust, and cannot but believe, that its object will commend itself to every Member of this Council.

"Rain-gambling was introduced into this City many years since by the Marwaris, who are much addicted to play and wagering of one kind or another, and is practised in the Bara Bazar quarter, where they chiefly reside. For some years it was confined to one house containing a large courtyard where the gamblers can assemble. Two more houses were subsequently opened, and facilities for gambling are now offered at three establishments. The system of play followed at those places has been thus described. Attached to the houses are a number of men who register bets for the proprietors, charging them or the successful wagerers a commission of one pice or of one anna, respectively, on each rupee won. The bets are made on the occurrence of rain within a certain time, and they are registered three or four times daily. The proprietors of the premises offer odds against rain, and these depend chiefly on the state of the weather, ranging from level money to 2 to 1, 3 to 1, and so on, sometimes up

to 50 to 1. Those who back the rain do not win unless the fall suffices to cause an overflow from a small raised tank through a spout, which is visible from the courtyard. A clock is kept on the premises to regulate the time.

"For many years after its introduction rain-gambling was practised mainly by the Marwaris; but, though it doubtless brought much pecuniary loss and misery to members of that community, as is inevitable with the systematic pursuit of gambling, the evil did not attain such proportions as to attract public notice and call imperatively for the interference of the Government. Recent years, however, have seen a marked development of this vice; and crowds of all nationalities are now observed at the gambling establishments. The Commissioner of Police has reported that they are frequented by Europeans, East Indians, West Indians, Native Christians, Jews, Hindus and Muhammadans—no doubt, chiefly the poorer and less respectable of those classes—and that native women and even children take part in the betting. So systematised and general has rain-gambling, in fact, become, that a guide to it was published in the past year, which professed to instruct the public in the study and forecast of the weather and to furnish tips for the rainy season. It appears that bets are made for small sums of few annas as well as for many hundreds of rupees, and temptation is thus offered to the poor and the wealthy alike. The gambling-houses and the streets where they are situated are frequently crowded from morning till midnight, and stalls for registering bets are kept in the street as well as inside the premises, causing much obstruction to traffic. A public nuisance thus exists, and, apart from the annoyance to persons residing in, or using, the streets who do not take part in the gambling, the Police fear that there may, at any time, be a serious breach of the peace. The attention of the Government was drawn to this gambling by a question asked in this Council by the Hon'ble Babu Surendranath Banerjee in July, 1895, but Sir Charles Elliott was not disposed to undertake legislation, on the grounds that betting in private houses could not be put down, and that it was not desirable to devise a law to stop this form of betting when other forms were left untouched. Last year the matter was again brought before the Government by a memorial submitted by a considerable number of residents of the neighbourhood of the gambling-houses, complaining of the injury done to those who resorted to them, and praying for their suppression. His Honour the Lieutenant-Governor was

satisfied that a state of things existed which demanded further consideration, and after the receipt of a report from the Commissioner of Police, the Calcutta Corporation, the British Indian Association, the Central National Muhammadan Association, the Muhammadan Literary Society and the Indian Association were invited to express their opinion whether the evil of rain-gambling is confined to the Marwari community, or whether it is so far-reaching and disastrous in its effects as to warrant recourse to legislation. With one exception, all these representative bodies have replied that rain-gambling extends to other classes than Marwaris, and strongly recommend legislation. It is stated by one of the Muhammadan bodies that many *purda-nashin* ladies of certain sections of their community are being drawn into this gambling through the agency of female brokers secretly employed by the proprietors of the establishments in Bara Bazar. The only dissentient opinion has been expressed by the British Indian Association. They recognize that the evil exists and is very demoralising, and that others than Marwaris are affected; but they object on general grounds to any legislation unless means could be devised for checking all other kinds of gambling, whether public or private. The Hon'ble Members will observe that the existence of a serious evil is generally admitted; and, apart from the testimony thus received, it is manifest that an organized system of public gambling such as this cannot be kept up without injury to many if not the majority of those whom it attracts. Instances of ruin and crime resulting from indulgence in rain-gambling have been mentioned, and it is impossible to doubt that many such cases have occurred. In the memorial presented last year, to which I have already alluded, it was stated that native bankers and merchants and young women of respectable families had ruined themselves by this pernicious habit. If the Council desires to hear of specific cases, I would mention two. In 1892 a young man committed suicide in consequence of his inability to repay a sum of money embezzled from his employer for the purpose of meeting losses at rain-gambling. Two years later another case came to notice in which a son had stolen ornaments of large value and money from his father for the same purpose. In the former case the Jury which sat in the Coroner's Court made a presentment recommending that measures should be taken to stop rain-gambling. In the presence of the clear evidence of the widespread evil which is being done by these gambling establishments of Bara Bazar, not only among the Marwaris, rich and poor,

but also among the poorer members in particular of other communities, the Lieutenant-Governor could entertain no doubt as to the necessity for legislation for the suppression of rain-gambling, and this Bill is the outcome of his consideration of the matter. It has been submitted to the Governor-General in Council, and sanction to its introduction in this Council has been received.

"I have mentioned the objection taken by the British Indian Association to legislation for this form of gambling while other kinds of gambling are left unchecked. Betting on horse races has been specified as equally pernicious, and it has been argued that so long as such betting is permitted legislation for the suppression of rain-gambling cannot be justified. It is not my desire to attempt to minimise the mischievous consequences of betting on the Turf; but I would draw attention to a broad distinction between it and the gambling which this Bill is designed to suppress. Racing is held for a few hours on only a few days of the year; rain-gambling continues daily and practically all day for six months. It is a legitimate inference that the mischief done by betting in the one case must be far less than in the other. But whatever may be the fact as regards betting on the race-courses, it is, I venture to think, on the present occasion a sufficient reply to the objection to partial legislation to say that it is unreasonable to abstain from dealing with a particular form of betting which can be reached and suppressed because attempts to suppress other forms appear undesirable or impracticable. Legislation against rain-gambling has been undertaken in Bombay and undertaken with success, and there is no reason to anticipate failure in this Presidency. I confess my inability to understand the attitude of those who, while admitting the very demoralising effects of rain-gambling, would permit it to flourish in this City and draw more and more of the poorer classes under its baneful influence. They cannot desire to defend it as a legitimate pastime, or deny that it is possible to enforce a law for the suppression of the gambling houses, and their objections to legislation must, therefore, be characterized as purely academic.

"It remains for me, before explaining the provisions of the Bill, to notice that a memorial, largely signed by Marwaris, including some heads of firms, and many managers and servants of other firms whose owners were absent from Calcutta, has recently been received protesting against legislation. The memorialists traverse the statements made in the memorial of last year in

condemnation of rain-gambling, assert that this form of gambling is comparatively innocuous or not more injurious than others, and that if suppressed gambling in some new form will take its place, and pray that it may not be interfered with. I have already, I trust, satisfied the Council that the character of an innocent pastime which the memorialists claim for rain-gambling cannot be rightly ascribed to it. It is possible, as they anticipate, that the Marwaris will devise some new form of gambling on its suppression. They have, the memorialists state, introduced in Bombay a system of betting on the number of cotton bales sold daily in the London market, not unlike the well-known betting on the prices realised at the Government opium sales in Calcutta. The suppression of rain-gambling will, however, at least protect from ruin and misery many outside the Marwari community who have been drawn into the gambling establishments. But the Government has reason to know that the more respectable Marwari residents themselves would be glad to see this gambling suppressed, although they are prevented by caste obligations from openly announcing their view. In any case, it would be entirely inconsistent with the principle of English administration in regard to gambling to tolerate the existence of public gambling houses in Calcutta or any other town of this Province.

"The provisions of the Bill may be very briefly explained. In Bombay legislation took the form of a short Act amending the General Gambling Act of the Presidency by including 'wagering' in the definition of 'gaming,' and 'any article used as a subject or means of gaming' in the definition of 'instruments of gaming.' Wagering on rainfall thus became illegal, and water-spouts and clocks watched for the decision of the bets, if within the premises of the gaming house, became instruments of gaming. In the present Bill it is proposed to effect the object in view by directly prohibiting rain-gambling. The definition of 'common gaming house' in the Bengal Acts is, therefore, to be amended by the addition of words which will bring within it any premises in which rain-gambling, specified as 'the form of wagering called rain-gambling,' is carried on; 'gaming' is to be defined as including rain-gambling; and within the definition 'instruments of gaming' are to be included books or registers in which rain-gambling wagers are entered, and all documents containing evidence of such wagers. These amendments will, it is believed, be effective against rain-gambling as it is now conducted. If gambling is hereafter practised in private houses it could be done only

on a small scale, and the harm would be proportionately small. The risk of prosecution would be a strong check against attempts to revive the gambling establishments in private residences. But while provision is made for suppressing the rain-gambling which actually exists in Calcutta, it is obviously essential to guard against the setting up of similar establishments in the vicinity or in any town of the interior. The amendments which I have described are, therefore, to be introduced in the following Acts, which provide for the punishment of gambling in this Province, that is, Act XXI of 1857, so far as it relates to Howrah, Act IV (B.C.) of 1866, relating to the Town of Calcutta, and the general Act, II (B.C.) of 1867 which operates in particular places on extension."

The Hon'ble MR. WALLIS said:—"I believe I am in order in referring at this stage of the proceedings to the general provisions of the Bill which is now before the Hon'ble Members, and which it is proposed to refer to a Select Committee. I do not wish, sir, for one moment to stand here as the champion of rain-gambling or of wagering or betting of any description; but I would desire to submit that the proposal at this meeting to introduce the Bill, to suspend the Rules of Business, to move that it be read in Council, and to appoint a Select Committee with instructions to report in a week, has, to say the very least of it, the appearance of undue haste. Personally I must admit that I am not prepared at such short notice to refer in detail to the principles of the Bill, or to express an opinion one way or the other; for up to the present the memorial which was referred to by the Hon'ble Member in charge of the Bill, and which I understand was submitted to Your Honour last year, praying that rain-gambling should be suppressed, has not reached my hands, and it was only on Tuesday last that I received official notice that I would be asked to sit on the Select Committee. Since then I have endeavoured to find out something about this form of wagering. I have interviewed several gentlemen who are capable of giving an unbiased opinion, and I have visited one of the betting houses. I am compelled to say that in my opinion the betting is carried on in a very systematic and open way. I certainly hold with the opinion expressed by Sir Charles Elliott through his Chief Secretary as recently as July 1895 that it would be practically impossible to put down betting in private houses, and if this particular form were stopped, it would break out in some other, and if driven into secrecy, might be more harmful than if

practised openly. Further, he did not think it possible to devise a law which would stop the form of betting known as rain-gambling without also bringing such practices as betting on races or on other events of chance within its prohibition. This, sir, seems to me the correct view of the matter; for it is manifestly undesirable to legislate for one particular form of wagering and to leave untouched so many others which are known to exist. I do not think, sir, that this Bill has been sent to the European Associations for opinion. I am almost certain that the Bengal Chamber of Commerce has not been consulted, and I know the Trades Association have not. I would therefore beg, Sir, that you will exercise the discretion which is given you under section 22 of the Rules of Business, and allow me to put forward an amendment that the discussion of the general principles of the Bill be postponed, and that the Bill be referred to all the Associations and public bodies in Calcutta for an expression of their opinion with a request that they report as early as possible. In support of my amendment, I would urge that as this form of wagering has been carried on for upwards of three quarters of a century, it is certainly not desirable to hurry the Bill through, even if my amendment should lead to the postponement of the question until the autumn session, or even until next cold season."

The Hon'ble SIR CHARLES PAUL said:—"I desire to make one observation. I find that objection is taken to this Bill on the ground that no legislation should be undertaken in regard to one form of gambling until we are also prepared to take into consideration legislation in respect of other forms of gambling. I hope this Bill may be the commencement of an attack upon gambling of every description. The objection taken does not commend itself to my mind, we must make a beginning."

The Hon'ble MR. M. S. DAS said:—"A good deal has been written in the papers and said about this Bill, but one thing I do not understand, namely, why there should be so much opposition to this Bill. The existing law on the subject contains a provision against keeping a common gaming-house, and the amendment proposed by this Bill only aims at enlarging the definition of the term "common gaming-houses." I do not see how there can be any analogy between betting at races and the system of gambling for the suppression of which this Bill has been introduced; because certainly there is a certain amount of difference between people betting in their own houses and the systematic

[*Mr. Das.*]

betting carried on in establishments which are open to the public where any one can go and indulge in betting. The law aims at putting down such common gaming-houses. A legislative assembly does not undertake to improve the morality of the people. We do not sit here to do the work of preachers and moralists; but in all countries the Legislature does undertake to put a certain amount of restraint upon places of public resort for the protection of the public. The Marwari community are of course quite welcome to indulge in betting in their own houses; but if they require certain appliances for the purpose, a reservoir and a spout through which water must flow, they reduce it to the form of a common gaming-house. I do not think it is the intention of this Bill to stop Marwaris or any other persons from gambling about rain falling, or staking their purses upon prognostications of rain; but it is this particular system of gambling which it is proposed to suppress by means of this Bill.

"While we are on this subject, I beg respectfully to submit that this opportunity should be utilised to introduce a small amendment in the Gambling Act which affects the mufassal. There is a difference in the provisions of the two Acts,—the Act which affects Calcutta, and the Act which affects the mufassal, with regard to the power of the Magistrate to order the search of a house on suspicion that it is a common gaming-house. A Magistrate in Calcutta can take the initial proceeding when he receives information upon oath; whereas under the Mufassal Act no such thing is necessary to enable the Magistrate to take the initial proceeding. It has often been remarked that in carrying out the provisions of this Act, some *zoolum* is done by the mufassal police; and as it is the duty of this Council to protect the interests of the public by preventing gambling, I think it is the duty of the Council as well to see that some person should be held responsible for any annoyance or insult to which an innocent person may be put when the search of his house is made on information which perhaps proceeds from malice or spite. This would not be the case if the information was on oath. This is a suggestion I beg to make, and I hope the Hon'ble Member in charge of the Bill will take this matter into consideration. It is a very small matter, and I hope the Hon'ble Member will see his way to introduce such an amendment."

[*Rai Eshan Chundra Mittra Bahadur; Babu Surendranath Banerjee.*]

The Hon'ble RAI ESHAN CHUNDRA MITTRA BAHADUR said:—"Up to yesterday I thought of opposing this Bill, but after hearing the instances of ruin which the Hon'ble Member in charge of the Bill has adduced, I consider the object of this Bill to be extremely benevolent. I think, however, that the Bill may be made a little more comprehensive in its provisions. I am not one of those who think that because the Government cannot touch gambling upon horse-racing or on opium *tejimundis*, the Legislature should not be in a position to put a stop to the evil which this Bill is intended to meet. Evils must be met gradually, and because one particular form of gambling cannot be dealt with at once, that is not a reason which should prevent legislation regarding another particular evil. I therefore think the legislation now proposed is one which ought to be supported. No doubt there are certain sections of the law which confer too much power upon the police, but at the same time the police must have some power for the suppression of this evil, and I would suggest that the definition of gaming-house should be amended in Select Committee. If the mere fact of finding cards in a house is sufficient to raise a presumption that it is a gaming-house, no house would be free from suspicion. The law as it stands provides that the finding of cards is evidence of a house being a gaming-house. I submit that the law goes too far in this respect, and I have no doubt the Council will be able to introduce a modification which would lead to general satisfaction."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I shall not be doing justice to myself if I do not accord my cordial support to this Bill. I have not been able to follow the observations of the Hon'ble gentleman who has asked for the postponement of the Bill. His chief grievance seems to be that certain European Associations were not consulted. He does not say that the enquiry instituted by the Government was not exhaustive, but that particular Associations representing particular interests were not consulted. I should like to ask the Hon'ble gentleman what interest the European Associations have in a Bill of this description. Suppose the Government were to introduce a Bill relating to mercantile matters, would it be any answer to the Bill being proceeded with that the British Indian Association and the Indian Association or the two distinguished Muhammadan Associations which are so ably represented here, had not been consulted? I do not suppose the Hon'ble Member in charge of the Bill would waste his time in sending such a Bill round for the consideration of bodies who could not be presumed to have any particular

knowledge of such matters. The European community have not the smallest interest in the Bill now before the Council. It is not pretended that European merchants or tradesmen frequent places like these or take part in rain-gambling transactions. The European Associations were not consulted because it was not thought necessary to do so. The Calcutta Corporation considered the matter at a meeting of the general committee, the executive body of the Corporation. I hold in my hands the proceedings of that meeting when the vote in favour of legislation was practically unanimous, there being only two dissentients. The Bill was also considered by the Indian Association with the Hon'ble Member for the University in the Chair, and the vote there was absolutely unanimous. The Muhammadan Literary Association and the Central Muhammadan Association also supported legislation in connection with this matter. I confess I cannot understand the other argument which has been urged by the same Hon'ble Member, namely, that this practice has been in force for the last seventy-five years, and therefore it may be allowed to continue for some time longer. Prescription does not consecrate an evil. No matter how long an evil has been in existence, if it is an evil which is growing and is expanding, if it is proving detrimental to a substantial portion of the community, it is the duty of the Government and of the Legislature to put it down. It has been urged that because we cannot suppress betting on the turf, therefore we must not interfere with rain-gambling. I would rejoice if we could see our way to suppress betting on the turf; but does it stand to reason and common sense that because we cannot suppress both these evils we must not suppress one of them when it is in our power to do so? The two forms of gambling do not indeed stand on the same footing. Betting on the turf is supported by the opinion of the civilized world, and a legislator wastes his breath who legislates in violent opposition to public sentiment. It would be futile to do so. Betting on the turf is supported by a large body of public opinion, and canons and rules have come into existence which act as safeguards against abuse. I should like to know if any such safeguards exist as to rain-gambling. Then I am told that if rain-gambling be suppressed in public, it will be carried on in secret. This is precisely one of those forms of gambling which cannot be carried on in secret. If it rains the bet is won; if it does not, it is lost. The gamblers must look at the clouds. They can hardly do so in secret. Further, if an evil practice is suppressed by legislation,

and if such legistation is not very much in advance of public sentiment, the evil is sure to be minimized and must eventually disappear. Let me give a concrete instance. The Government has put down those dens of iniquity in which opium smoking was practised. Opium smoking has not indeed disappeared. But the evil has been minimised. The number of opium-smokers has become less, and in the course of the next twenty or thirty years the evil will have disappeared. It will be the same in the case of rain-gambling. If you fail to deal with the evil now, it will strike a firm root in the soil, vested interests will gather round it, and it will gradually enlist the support of a sympathetic public opinion. I have discussed this question with men of light and leading in Bara Bazar, and I have heard no opinion except such as condemned the practice. Calcutta society was not long ago convulsed by the tale of an atrocious murder committed by a Bengali named Annoda Prosad Ghose. He murdered his sons. And when the story of his life was published, what was the most startling fact which it disclosed? He was a confirmed rain-gambler, and lost the whole of his fortune, amounting to two lakhs of rupees, in the rain-gambling establishment. Only the other day I was having a conversation with one of the foremost men in the Marwari community. He said there was a respectable lady living in Bara Bazar who had taken to rain-gambling; she went through the whole of her money, and then went astray; another person embezzled his master's money, and then expiated his guilt in the Presidency jail, and there are no doubt other cases which have not seen the light. I have no hesitation in saying that it is the bounden duty of the Government and the Legislature to suppress an evil which is spreading fast. It is not confined to the Marwari community: it has spread to the Bengali community, to Eurasians, Armenians and Jews. I know there are clerks employed in the Bengal Office who frequent these gaming-houses. I hope and trust this Bill will be passed into law before the rains set in, and a Government which places such a law as this upon the statute-book will be entitled not only to the lasting gratitude of the Marwari community, but to the approbation of the thinking and the good among all sections of the people."

The Hon'ble NAWAB SYUD AMEER HOSSEIN said:—"While according my support to this Bill, I must protest against any delay in passing the measure, for that will mean to allow another full season for the practice of rain-gambling, which begins from about the middle of the month of May. Next to the Commissioner

[*Nawab Syud Ameer Hossein; Rai Durga Gati Banerjea Bahadur; Babu Guru Proshad Sen.*]

of Police, I, as Magistrate of the Northern Division of the Town, have had frequent opportunities of observing the evil effects of rain-gambling. It is carried on within my jurisdiction, and I have had several cases of honest gomashtas, durwans and other servants falling into the temptation, and after losing all they possess, committing either theft or criminal breach of trust. In addition to the two cases of suicide mentioned by the Hon'ble Member in charge of the Bill, I had, while acting as Coroner last year, another case, in which a man committed suicide simply because he was ruined by rain-gambling. I had also before me the case of Annoda Prosad Mitter, the real cause of whose ruin was rain-gambling. I therefore strongly support this Bill."

The Hon'ble RAI DURGA GATI BANERJEA BAHADUR said:—"With Your Honour's permission I will say a word or two in support of this Bill. The exhaustive and lucid speech of the Hon'ble Member in charge of the Bill gives an adequate idea of the pernicious effects of rain-gambling. I have personal knowledge of the ruin which this baneful system of gambling has caused to many families in Calcutta. This evil is not confined to Marwaris, but extends also to other sections of the community. In fact, it is a public nuisance, as has been remarked by the Hon'ble Mover; and the sooner it is suppressed, the better for society. It is an acknowledged evil, and there is no reason why it should not be suppressed because other similar evils exist. There seems to be nothing in the system of rain-gambling which can commend it either from a social or moral point of view. The sooner therefore this serious and growing evil is suppressed the better. This has already been done by legislation in Bombay, and I do not see why this Council should not follow the example set by that Legislature."

The Hon'ble BABU GURU PROSHAD SEN said:—"I hope the Hon'ble Member in charge of the Bill will see his way to include section 6 of the Gambling Act in his scheme of amendment. That section provides that when any cards, dice or other instrument of gaming are found in any house, tent, room, space, or walled enclosure entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is proved, that such house is used as a gaming-house. Here the accused has to prove his innocence when a case is brought against him. That Act was passed in 1867. Probably the emergency of the

case at the time required a provision like that ; but when the Legislature is engaged in amending the Gambling Act there is no reason why this particular section should not come under revision."

The Hon'ble MR. BOLTON in reply said :—"The support which this Bill has received from the Council is very gratifying to myself as its Mover. The Hon'ble Mr. Wallis has taken objection to the haste with which legislation is being pressed. The sole reason for passing rapidly through the early stages of the Bill is that the Session of the Council will come to an end shortly, and that, therefore, if the measure is to be passed now, the Council must go through the preliminary stages quickly. For delay in passing this Bill I can conceive no possible reason. In addition to the cases which I have mentioned to the Council, other instances of the very serious evil done by rain gambling have been mentioned by the Hon'ble Babu Surendranath Banerjee and the Hon'ble Nawab Syud Ameer Hossein, and there can be no reason for allowing this form of public gambling to continue for one day longer than can be avoided. The Bill will cause injury to none but the keepers of the gambling-houses, who, no doubt, benefit very largely by the recklessness or want of intelligence of the unfortunate people who resort to their houses. To the gamblers, and others who might hereafter have been tempted to follow their example, this Bill will be an incalculable boon. If the Marwari community, as those who have memorialised against legislation have themselves declared, cannot repress their passion for betting, the Bill will not be open to the reproach of adding to the many ways in which they indulge that passion : on their own admission it will only result in one form of gambling being substituted for another. Inquisitorial interference with gambling in private houses is not proposed. The Bill deals only with *public* gambling, for the suppression of which the law already provides. All that it insists upon is that if the Marwaris choose to indulge in gambling, they shall not be permitted to do so in houses to which the public are invited. While making these remarks about the Marwaris, however, I must repeat that it is known to the Government that the most respectable men of that community are most anxious that legislation on this subject should be carried through, and that they would hail with the greatest satisfaction the passing of this Bill. The action of the Government in pushing this Bill through the Council, therefore, needs no defence. I have already, in my opening speech, replied to the argument that this legislation is unjustifiable while we abstain from interfering with other

forms of gambling, and other Hon'ble Members have also pointed out the futility of that argument. The Hon'ble Mr. Wallis took exception to the Government not having invited the opinions of the Chamber of Commerce and the Trades Association on the necessity for legislation in this case. As I have already informed the Council, various native Associations have been consulted, and with a single exception they strongly and unanimously recommend legislation. It did not occur to the Government to consult the Chamber of Commerce and the Trades Association, because Europeans are not concerned with this matter. The fact, as reported by the Commissioner of Police, that Europeans and Eurasians resort to these rain-gambling houses can afford no ground for a contention that the interests of Europeans in general are affected by the provisions of this Bill. It appears to me, therefore, entirely unnecessary to postpone the consideration of this Bill in order to invite the opinions of the Chamber of Commerce and the Trades Association. As opinions have already been invited and received from the Associations which are really concerned with this measure, and which it was necessary to consult as representatives of different sections of the native community in Calcutta, I must oppose the amendment which the Hon'ble Member desires to move for postponing the consideration of the Bill to another Session of the Council. During that interval a serious public nuisance will continue, and further evil will be done among the people who are drawn to these gaming-houses. The Hon'ble Mr. Das, Babu Guru Proshad Sen, and Rai Eshan Chundra Mittra have suggested that the Council should also take into consideration certain provisions of the Acts dealing with public gambling, but it is not necessary to examine those provisions of the law at present, and I must object to our travelling beyond the scope of this Bill, which has been framed simply for the purpose of including rain-gambling as practised in Bara Bazar among the different forms of public gambling which are prohibited by the existing law. We are not here to undertake the general revision of the gambling law. For such a revision of the law a separate measure must be introduced, in connection with which the principles which regulate the law could be discussed. I am not prepared, therefore, to support the suggestion of the Hon'ble Members that the desirability of amending the sections to which they have referred should be considered. If any Hon'ble Member desires to bring forward in Select Committee any particular amendment of the law, he will be at liberty to do so, but personally I shall strongly oppose any amendment in the direction which has been suggested."

The Hon'ble THE PRESIDENT said:—"Before putting the motion, it is perhaps as well that I should express my own personal views in regard to this measure. I am afraid I do not rise a very great height of moral elevation in connection with this Bill. Personally, I have no sympathy whatever with gambling in any shape or form. I never made a bet in my life; I do not play cards for money; and the only gambling I ever indulged in, if it can be so called, was when I took some tickets in Lady Mackenzie's lucky bag at the Fancy Fair at Belvedere a few days ago. I am no believer in enforcing morality by legislation. I look upon this Bill simply as a measure of police. I have been convinced by the reports of the Commissioner of Police that the practice of rain-gambling has grown to the dimensions of a large and growing public nuisance. It is solely in that light that I approach the question. At home and in most civilised countries common gaming-houses are looked upon with disfavour, and are suppressed by legislation. The mode in which this form of gambling is conducted in Bara Bazar has become so intolerable as to call for the intervention of the police. They are common gaming-houses of a most notorious description, and ought, as a matter of police pure and simple, to be suppressed. This is simply the light in which I view the question.

"I am not prepared to accept the amendment of the Hon'ble Mr. Wallis, though of course it is open to him to ask that it should be put to the Council should he consider it necessary to do so. This Bill has been before the public for a long time. It did not occur to me to refer it to the European Associations, but it was open to those Associations, if they were interested in the measure, to approach the Government without any special invitation. They have often done so in the past, and will, I trust, continue to do so in the future. I do not know what the Hon'ble Mr. Wallis saw in Bara Bazar in the middle of the hot weather,—probably not very much, but if he visits it in the rains or reads a description of it in the rains, I think he will be convinced that this is a measure which, in the interests of good order in the city, we are bound to press forward. The delay in introducing this Bill into Council is not altogether the fault of the Government of Bengal. We had to secure the approval of the Governor-General and of the Government of India to this legislation before we could introduce it, and the Government of India amidst its many duties necessarily and unavoidably lost some time in replying. We must push it through now, because we consider that when once the determination has been come to to put down the evil, we ought not to allow it

to continue for another rainy season. As a matter of fact no delay could add to the information which the Select Committee will have before them. I have in the drafting of this Bill, which follows largely my own suggestions, avoided as far as I could the difficulties which arose from the introduction of the form of words which found favour in Bombay. I sought to raise no general question as to the propriety of other forms of wagering, but to make the Bill deal directly and simply with the particular evil which we sought to control, rain gambling in common betting houses. Hence the shape which it assumes, and I trust the Select Committee will see their way to return it to the Council without any material alteration in its form.

"The Hon'ble gentlemen who have suggested that we should take this opportunity of amending other portions of the Act have also pressed upon us the inadvisability of delaying the passing of this Bill. But I must call attention to the fact that if we do tamper with or alter the Act as a whole and the general principles of it, we must necessarily hang it up until opinons upon those alterations are received from all over Bengal. Therefore I trust that when this Bill goes before the Select Committee, they will confine their attention to the Bill as it is now laid before them."

The Hon'ble MR. WALLIS said:—"I still desire, with Your Honour's permission, notwithstanding all that has been said by the respective speakers, respectfully to put the amendment I have brought forward. I should have refrained from making any further remarks but for one or two observations which have fallen from the Hon'ble Babu Surendranath Banerjee. He said that this Council would not think of referring commercial questions for the consideration of the Muhammadan Literary or other kindred Associations, but the Hon'ble Member surely does not seriously mean to compare this piece of general legislation to legislation confined to commercial questions pure and simple. He must remember that the Chamber of Commerce, holding the position it does in Calcutta, has not been built up by taking into consideration questions which concern them alone as commercial men, but their views have been asked and sought for by the Government, and they have taken up questions entirely outside the interest of Commerce, and have done so in the interests of all classes of society. And I may also be allowed to say that the Trades Association, though in a much less degree, have ventured to do the same. I therefore still consider, notwithstanding what has fallen from the Hon'ble Members

who have spoken and the Hon'ble Member in charge of the Bill, that this Bill should be referred to the Chamber of Commerce and the Trades Association for an expression of their views.

"I prefaced the remarks which I first made by saying that I was not championing rain-gambling or gambling or betting of any sort, and I purposely avoided expressing my opinion either on the question directly before me or upon any other form of wagering or betting. I said that I was not in a position to discuss the general provisions of the Bill simply because I did not know sufficiently about the matter. I must, however, now frankly admit that the attitude which I took in respect of this Bill has been considerably altered by what I had since heard of the crimes which have resulted from the effects of this vice of rain-gambling. The Hon'ble Member in charge of the Bill has been good enough to put my name on the Select Committee, and I shall therefore have the opportunity of considering any further information which may be placed before us. I could, however, still desire, with Your Honour's permission, that my amendment should be put to the Council."

The Hon'ble MR. WALLIS's motion that the Bill be referred to all Associations and Public Bodies in Calcutta for an expression of their views upon it, with a request to report thereon as early as possible, was put to the vote and negatived.

The Hon'ble MR. BOLTON's motion that the Bill be referred to a Select Committee was then put and agreed to.

AMENDMENT OF CERTAIN SECTIONS OF BENGAL TENANCY ACT, 1885.

The Hon'ble MR. FINUCANE moved for leave to introduce a Bill to amend sections 30, 31, 39, 52 and 119 and Chapter X of the Bengal Tenancy Act, 1885. He said:—

"This Bill with its Statement of Objects and reasons will be circulated and placed in the hands of Hon'ble Members in a day or two. The Bill is an important one—perhaps one of the most important Bills introduced in this Council for many years past, but I do not propose to detain the Council to-day in attempting to explain its provisions or its objects and reasons. I shall, with the permission of the Council, do so when Hon'ble Members have had time to read the Bill and see what its provisions are."

[*Rai Eshan Chundra Mittra Bahadur; Sir Charles Paul; the President.*]

The Hon'ble RAI ESHAN CHUNDRA MITTRA Bahadur said:—"As I have great doubts upon the point, may I ask Your Honour's permission to put a question to the Hon'ble Member in charge of this Bill, namely, whether this Council has the power to curtail or to modify the jurisdiction of the High Court."

The Hon'ble SIR CHARLES PAUL said:—"As the question of the power of this Council to interfere with the jurisdiction of the High Court has been mentioned, I wish to state that I have lately had occasion to consider the question. The Bengal Council has no power to cut down any Act of Parliament, and so far as the High Court receives any jurisdiction from an Act of Parliament, this Council cannot modify or control such jurisdiction, but all jurisdiction which the High Court receives from the Acts of the Governor-General in Council or from any Act of this Legislature can, with the consent of the Governor-General in Council, be controlled or modified or abrogated by this Council."

The Hon'ble THE PRESIDENT said:—"The Bill is not before the Council at present, and none of the members know at present what it contains. A reference to the Bengal Tenancy Act will show that this Council has the power to amend that Act, and therefore the objection which has been taken is premature at this stage. The only question at present before the Council is that leave be given to introduce a Bill, contents unknown, to amend the Bengal Tenancy Act. The Bill, as the Hon'ble Mr. Finucane has said, is a very important one, and I have no intention of rushing it through. It will at present be simply introduced and explained; it will then be published and referred for opinion to all public officers and local bodies, and there will be ample time, before the Council takes up the Bill in its later stages, to know what the Bill proposes to do, what it does not do and what the Council ought to do.

"I will also take this opportunity to say that I have no intention of hurrying through the further stages of the Partition Bill, but I hope the Select Committee will be able to submit its report before the Council parts, as my intention is to republish the Bill and to refer it to public officers and local bodies, and to await the receipt of their opinions before the Council proceeds to consider the Select Committee's report."

The Motion was put and agreed to.

The Council adjourned to Saturday, the 27th instant.

F. G. WIGLEY,
Offg. Asst. Secy. to the Govt. of Bengal,
Legislative Department.

CALCUTTA;
The 7th April, 1897.

Reg. No. 21G—300—2-4-97.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met at the Council Chamber on Saturday, the 27th March, 1897.

Present:

The Hon'ble SIR ALEXANDER MACKENZIE, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.
The Hon'ble SIR CHARLES PAUL, K.C.I.E., Advocate-General of Bengal.
The Hon'ble H. H. RISLEY, C.I.E.
The Hon'ble RAI DURGA GATI BANERJEA BAHADUR, C.I.E.
The Hon'ble NAWAB SYUD AMEER HOSSEIN, C.I.E.
The Hon'ble M. FINUCANE.
The Hon'ble C. W. BOLTON.
The Hon'ble W. H. GRIMLEY.
The Hon'ble J. G. H. GLASS, C.I.E.
The Hon'ble C. A. WILKINS.
The Hon'ble SURENDRANATH BANERJEE.
The Hon'ble A. M. BOSE.
The Hon'ble RAI ESHAN CHUNDRA MITTRA BAHADUR.
The Hon'ble GURU PROSHAD SEN.
The Hon'ble MAHARAJA BAHADUR SIR RAVANESHWAR PROSHAD SINGH, K.C.I.E., of Gidhaur.
The Hon'ble M. S. DAS.
The Hon'ble A. H. WALLIS.
The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH.

RAIN-GAMBLING BILL.

The Hon'ble Mr. BOLTON presented the Report of the Select Committee on the Bill for the suppression of rain-gambling. He said:—

"At the next meeting of the Council I propose to move that the Report be taken into consideration, and that the Bill be passed into law."

[*Babu Guru Proshad Sen; the President; Mr. Risley.*]

The Hon'ble BABU GURU PROSHAD SEN said:—"With Your Honour's permission I wish to give notice, under Rule 21 of the Rules for the Conduct of Business, that I shall move for the introduction of a section to repeal section 6 of Bengal Act II of 1867, and the corresponding Section 47 of Bengal Act IV of 1866."

The Hon'ble THE PRESIDENT said:—"Do you propose to move it as an amendment to the Bill before the Council?"

The Hon'ble BABU GURU PROSHAD SEN replied:—"It is rather an addition to the Bill."

The Hon'ble THE PRESIDENT said:—"I do not think we can go beyond the provisions of this Bill, which is a Bill for the suppression of rain-gambling; and what you propose to do is to move a substantial addition to the Bill by way of amendment of the Gambling Act. I have not the permission of the Government of India to introduce such a provision in this Bill."

The Hon'ble BABU GURU PROSHAD SEN said:—"Your Honour has the permission of the Government of India to amend the Gambling Act by way of addition. I do not propose to go further. I simply ask permission for the repeal of section 6 of the Gambling Act."

The Hon'ble THE PRESIDENT said:—"The Hon'ble Member can bring forward his motion, but I shall oppose the amendment as going beyond the scope of the present Bill. It will make a serious alteration in a law, which is on all fours with the English law on the subject."

BENGAL FINANCIAL STATEMENT FOR 1897-98.

The Hon'ble MR. RISLEY laid on the table the Bengal Financial Statement for 1897-98 with explanatory notes.

PART I.—General Review.

(1) ACCOUNTS OF 1895-96.

1. The closed accounts for 1895-96 show that the Provincial receipts of the year amounted to Rs. 4,58,51,520 against the revised estimate of Rs. 4,56,39,000, and the Provincial expenditure to Rs. 4,43,53,440 against the revised estimate of Rs. 4,44,10,000, thus working out to a surplus of

[*Mr. Risley.*]

Rs. 14,98,080 against Rs. 12,29,000 anticipated when the revised estimate was framed. The main causes of this improvement were the increase in the Provincial share of the net earnings of the Eastern Bengal State Railway system, due to the heavy jute traffic during the last quarter of the year, and the decrease in expenditure under Stationery and Printing.

(2) REVISED ESTIMATE FOR 1896-97.

2. The Budget Estimate for 1896-97, as adopted by the Government of India, assumed that the year would open with a credit balance of Rs. 55,51,000, that the total revenue would amount to Rs. 4,46,36,000, and the total expenditure to Rs. 4,67,47,000, so that the year would close with a balance of Rs. 34,40,000. The latest estimate available for the accounts of the year shows that the total receipts will probably be Rs. 4,63,81,000, which is better than was originally expected by Rs. 17,45,000, and that the expenditure will be Rs. 4,80,94,000, which gives an increase of Rs. 13,47,000: the result is a net improvement of Rs. 3,98,000, and as there is an increase of Rs. 2,69,000 in the expected amount of the opening balance, the total improvement on the original estimate is Rs. 6,67,000. The large increase of revenue in the revised, as compared with the original, estimate is mainly due to an increase of Rs. 7,87,000 in the Provincial share of the net earnings of the Eastern Bengal State Railway. There is also a considerable increase under Stamps (Rs. 4,84,000), Provincial Rates (Rs. 1,10,000), Assessed Taxes (Rs. 1,25,000), and Irrigation (Rs. 1,42,000). Smaller advances also appear under Land Revenue (Rs. 76,000), Excise (Rs. 62,000), Registration (Rs. 68,000), Miscellaneous heads (Rs. 50,000), and Civil Works (Rs. 60,000). On the other hand there is a special payment of Rs. 2,00,000 adjusted under Land Revenue, being half the amount of deferred interest on the Kidderpore Dock loans remitted by the Government of India on the recommendation of this Government. The main increase in expenditure is the provision of Rs. 18,50,000 for the relief of distress arising from the prevailing famine, a calamity which was not anticipated when the budget was originally framed, and against this increase there are decreases of about 2 lakhs under "Direct demands on the revenues," of nearly a lakh under Irrigation, and of more than 1½ lakh under Public Works, taking together the works under direct management and those under local authorities. The net result of these variations from the Budget of 1896-97 is an increase in the closing balance of Rs. 6,67,000, from Rs. 34,40,000 to Rs. 41,07,000.

[*Mr. Risley.*]

(3) PROVINCIAL CONTRACT, 1897-1902.

3. I now turn to the Provincial Contract which will begin to take effect from the 1st April 1897. The chief alteration made in the conditions of the current contract which expires on the 31st of this month is the imperialisation of the receipts and expenditure of the Eastern Bengal State Railway, one-half of the net revenue of which is now assigned to this Province. By way of compensation for this loss of growing revenue the provincial share of the receipts from Excise has been raised from one-fourth to one-half. The only additional charges which have been provincialised in the new contract are the Survey and Settlement expenditure other than that in Bihar, and the expenditure on account of Marine pensioners of the Imperial Department, mainly dockyard employés, and of the pensions of Branch Pilots and other Provincial Marine officers, and of their widows and orphans. The inter-provincial adjustments hitherto allowed with Upper Burma have also been stopped. On the other hand, as important administrative changes in the Salt Department are under conisideration, the receipts and expenditure of this Department have been reserved for the present as Imperial. The contract passed by the Government of India provides for an annual contribution of Rs. 14,19,000 to the Imperial treasury, from the assigned revenues of this Province, against Rs. 14,39,000 paid during the currency of the expiring contract.

(4) BUDGET ESTIMATE, 1897-98.

4. The Budget Estimate for 1897-98 under the terms of the new contract as set forth above, and as finally passed by the Government of India, accepts Rs. 41,07,000 as the opening balance, and provides for receipts aggregating Rs. 4,54,83,000 and expenditure Rs. 4,85,90,000, including a provision of Rs. 22,18,000 as the provincial share of the outlay on Famine Relief, leaving a closing balance of Rs. 10,00,000. It is estimated that on the whole the receipts, which under the new arrangement are only Rs. 3,68,000 less than the actuals of 1895-96, will be less by Rs. 8,98,000 than the revised estimate for the current year. Taking this year as the standard of comparison, it will be seen that Bengal loses Rs. 44,50,000 under railway receipts, an item of revenue which tends to develope rapidly without adding to the Provincial expenditure, except in the form of feeder roads. In exchange for the share of railway receipts which was made over in 1892, the province gets under the new contract an extra quarter of the excise revenue estimated at Rs. 33,62,000. The loss of

revenue alone comes therefore to nearly 11 lakhs, while the expenditure on excise rises at the same time by Rs. 1,78,000. On the whole transaction, therefore, putting each source of revenue at its present value, Bengal is worse off by more than 12½ lakhs; while the prospective loss is probably much greater, for it is unlikely that excise revenue will expand in the same proportion as the railway receipts. On the expenditure side the estimate, excluding famine outlay, has been passed for a total grant of Rs. 4,63,72,000 against Rs. 4,62,44,000, the revised estimate of 1896-97. The estimate of 1897-98 includes Rs. 8,06,000 for Survey and Settlement charges and Rs. 57,000 for marine pensions which have been provincialised under the contract. The budget is explained in somewhat fuller detail in next part.

PART II.—Details of the Budget Estimate for 1897-98.

RECEIPTS.

1. *Land Revenue.*—The total collections under Land Revenue in 1895-96 amounted to Rs. 3,90,52,000 and the estimate for 1896-97, as passed by the Government of India, is Rs. 3,92,50,000, which includes Rs. 3,00,000 for recoveries of survey and settlement charges in Bihar. The 12 per cent. on collections from Government estates yielded in 1895-96 Rs. 5,05,000, while the estimate for 1897-98 stands at Rs. 5,40,000. The *Adjustments* between Imperial and Provincial generally cease on the settlement of a new arrangement, and the figures shown under the head represent the fixed contribution of Rs. 14,19,000 to Imperial, less a special temporary assignment of Rs. 6,23,000 made in order to enable the Local Government to carry out the heavy programme of the Survey Department in the first year of the contract.

2. *Stamps.*—The estimate of Stamp revenue for 1896-97 was passed by the Government of India for Rs. 1,67,80,000. The latest returns from the Comptroller-General show that the receipts during the first eleven months of the year exceeded those of the corresponding period of last year by about Rs. 6,56,000. In view of the increase that has already occurred, both the revised estimate for 1896-97 and the estimates for 1897-98 have been placed at Rs. 1,74,25,000, and the Provincial share of three-fourths amounts to Rs. 1,30,69,000. The increase is almost wholly under general stamps.

3. *Excise.*—The revenue from Excise for 1896-97 was estimated at Rs. 1,33,00,000. The actuals of 1895-96 amounted to Rs. 1,33,78,000, and the

figures of the first 11 months of 1896-97 show an increase of Rs. 1,74,000 over the actuals of the corresponding period of the preceding year. The estimate has accordingly been raised to Rs. 1,35,50,000 for 1896-97, but in consequence of a change in the system of levying duty on ganja exported to the North-Western Provinces, the estimate for next year has been passed at a lakh less than that for 1896-97. The Provincial share of excise revenue has been raised under the new contract to one-half.

4. *Provincial Rates.*—The actual collections of the Public Works Cess in 1895-96 amounted to Rs. 41,37,000, and the average actuals of the past there years were Rs. 41,41,000. The actuals of the first ten months of the current year show an increase of Rs. 1,27,000 over those of the corresponding period of last year. The revised estimate for the current year has accordingly been placed at Rs. 42,00,000. The prevailing scarcity will, it is anticipated, affect the collections during next year, and the estimate for that year has been taken at Rs. 40,60,000. The estimate of receipts under "General rates for the management of private estates" is Rs. 1,40,000.

5. *Assessed Taxes.*—The budget estimate of receipts from Income Tax for 1896-97 was passed by the Government of India for Rs. 46,50,000. The actual collections of last year amounted to Rs. 46,60,000, and those of the twelve months ending 28th February were Rs. 49,53,000. Both the revised estimate for 1896-97 and the estimate for 1897-98 have been placed at Rs. 49,00,000. The Provincial share of one-half is Rs. 24,50,000.

6. *Forest.*—The receipts of the Forest Department are now estimated at Rs. 12,80,000 for 1896-97 and Rs. 13,00,000 for 1897-98, against Rs. 9,19,000, the actuals of 1895-96. The increase over the actuals of 1895-96 is due to contracts undertaken by the department for the supply of sleepers to the Rai Bareili-Benares Railway. Increased provision has also been made on the expenditure side for the cutting and carriage of these sleepers, so that the net receipts are estimated at Rs. 6,15,000 for 1896-97 and Rs. 5,93,000 for 1897-98 against Rs. 4,53,000, the actuals of 1895-96. The lower estimate of net receipts for 1897-98 is due to a provision made to give effect to the scheme of the re-organization of the subordinate Forest staff sanctioned by the Secretary of State. The Provincial share is one-half.

7. *Registration.*—The budget estimate of receipts for 1896-97 was Rs. 13,65,000 against Rs. 13,41,000, the actuals of 1895-96. The actuals of the

first ten months, compared with those of the corresponding period of last year, show an increase of Rs. 1,28,000, part of which represents an increase in the registration of mortgage deeds due to the prevailing scarcity. The revised estimate is Rs. 15,00,000. The increase in registrations is not expected to continue during next year, and the estimate for 1897-98 has accordingly been taken at less than the revised estimate for the preceding year.

8. *Interest.*—The estimate of loans for 1897-98, as passed by the Government of India, provides for a return of Rs. 3,09,000 under Interest in 1897-98, thus:—

	Rs.
Interest on advances to cultivators	57,000
Do. on drainage and embankment advances	52,000
Do. on loans to notabilities	1,000
Do. on loans to municipalities and other local authorities	1,45,000
Miscellaneous, including interest on Government securities in deposit for the Education Department	54,000
	3,09,000

9. *Post Office.*—The Provincial receipts consisted of recoveries made from the Zamindari Dák Fund on account of establishment employed in the Postmaster-General's office, but these are now adjusted in the books of the Postal Department, and do not pass through the Provincial accounts.

10. *Law and Justice—Courts of Law.*—The receipts from magisterial fines have steadily declined since 1893-94. The estimate has been placed at Rs. 8,30,000 against Rs. 8,41,000, the actuals of 1895-96.

11. *Law and Justice—Jails.*—The estimate under this head is Rs. 9,08,000 against Rs. 8,58,000, the actuals of 1895-96. The increase is mainly due to the supply of police clothing by the Jail Department.

12. *Marine.*—The budget estimate of total receipts for 1896-97 was Rs. 9,35,000. This has been raised to Rs. 9,64,000 in the revised estimate, with reference to the actuals of the 12 months ending 31st January 1897, which amounted to Rs. 9,64,000, owing to the unusually high receipts under Pilotage. The estimate for 1897-98 is Rs. 9,54,000, and is based on the average actuals of past years.

13. *Education.*—The estimate under this head amounts to Rs. 6,27,000 against Rs. 5,69,000, the estimate for 1896-97. The increase is due to the inclusion of receipts from the Eden Hindu Hostel (Rs. 40,000), which it has since been decided to keep outside the Provincial accounts, and to increased fee-receipts (Rs. 17,000) from the Kurseong Boarding School, which has been enlarged to provide for a larger number of students.

14. *Medical.*—The estimate of Rs. 2,11,000 follows the actuals of 1895-96.

15. *Scientific and other Minor Departments.*—The estimate for 1897-98 amounts to Rs. 2,23,000 against Rs. 2,08,000, the revised estimate for 1896-97, and Rs. 2,35,000, the actuals of 1895-96. The decrease, compared with the actuals of 1895-96, is due to an anticipated falling off in the receipts from the sale of quinine, in consequence of the prevailing scarcity.

16. *Superannuation receipts.*—The estimate of Provincial receipts for 1896-97 amounts to Rs. 70,000, which has been reduced to Rs. 49,000 in the revised estimate, in consequence of a change in the mode of adjusting contributions for the pension and leave allowances of certain officers. The estimate for 1897-98 has been fixed with reference to the actual demands as calculated by the Accountant-General.

17. *Miscellaneous.*—The receipts under this head fluctuate largely from year to year. The actuals were as follows:—

	Rs.
1890-91	7,70,000
1891-92	8,36,000
1892-93	8,27,000
1893-94	8,63,000
1894-95	10,12,000
1895-96	10,23,000

The estimate for 1897-98 is Rs. 9,35,000, while the revised estimate for 1896-97 is Rs. 9,28,000.

EXPENDITURE.

18. *Land Revenue.*—The total expenditure under Land Revenue for 1897-98 is estimated at Rs. 45,71,000 against Rs. 37,29,000, the budget grant for 1896-97. The increase is due to a provision of Rs. 8,06,000 for survey

and settlements now provincialised, and to a larger grant for management and improvement of Government estates in proportion to the anticipated increase of revenue from those estates.

19. *Stamps.*—The estimate of expenditure for 1897-98 amounts to Rs. 7,02,000 against Rs. 6,67,000, the budget estimate for the current year, and Rs. 6,57,000, the actuals of 1895-96. The increase is under "Stamp paper supplied from Central Stores," the estimate under this head being Rs. 3,67,000 against Rs. 3,34,000, the actuals of 1895-96. The Provincial share is three-fourths.

20. *Excise.*—The total expenditure for 1897-98 is estimated at Rs. 7,13,000 against Rs. 7,11,000, the budget grant for 1896-97. The budget provides a larger grant for additional Preventive Sub-Inspectors and travelling allowances against a reduction of Rs. 25,000 in the construction of distillery buildings. These buildings will now be transferred to the books of the Public Works Department. The Provincial share has, however, been increased from one-fourth to one-half, and this accounts for the increase from Rs. 1,77,000 for 1896-97 to Rs. 3,57,000 for next year.

21. *Provincial Rates.*—The Provincial expenditure for 1897-98 has been provisionally estimated at Rs. 1,19,000 against Rs. 85,000, the grant for the current year. The amount includes a provision for revaluations in a number of districts, and also for revising the arrangement under which the cost of collecting the Public Works Department cess is divided between Provincial revenues and District funds. In settling the terms of the contract the Government of India were asked to make an assignment for the latter purpose; but this they have refused to do, and in view of the diminished resources of the Government it is uncertain whether the change contemplated will not have to be deferred at any rate for the present.

22. *Customs.*—The expenditure for the year 1897-98 is estimated at Rs. 8,00,000 against Rs. 8,02,000, the budget estimate for 1896-97, and Rs. 7,98,000, the actuals for 1895-96. The provision in the current year's budget for purchase and repairs of preventive service boats and petty construction and repairs has not been fully utilised, and there have also been savings under exchange compensation allowance. These account for small provision in the revised estimate for the year.

23. *Registration.*—The estimate for 1897-98 is Rs. 8,73,000 against Rs. 8,03,000, the actuals of 1895-96. The increase is due chiefly to provision being made for larger payments under the heads of commission to Rural Sub-

Registrars and of contingent charges owing to the opening of new registration offices.

24. *Interest.*—The rate of interest payable on the Provincial loans has been reduced by the Government of India from 4 to 3½ per cent. with effect from next year. The budget grant has been reduced accordingly.

25. *Administration.*—The estimate under this head amounts to Rs. 17,28,000, against Rs. 17,62,000, the revised estimate for 1896-97, and Rs. 17,50,000, the actuals of 1895-96. The fluctuations are mostly due to privilege leave allowances of officers.

26. *Law and Justice—Courts of Law.*—The original estimate of expenditure for 1896-97 amounted to Rs. 89,81,000, against Rs. 88,26,000, the actuals for 1895-96. The estimate has been reduced to Rs. 88,90,000 in the revised estimate for the year, with reference to the actuals of the first 10 months of the year, which amounted to Rs. 73,91,000 against Rs. 73,09,000 in the corresponding period of the preceding year. The estimate for 1897-98 is Rs. 89,42,000.

27. *Jails.*—The estimate of total expenditure for 1897-98 has been placed at Rs. 22,32,000, against Rs. 24,70,000, the revised estimate for 1896 97. The revised estimate includes a larger provision for dietary charges consequent on the rise of prices of food-grains.

28. *Police.*—The estimate for 1897-98 amounts to Rs. 61,18,000, against Rs. 60,40,000, the budget grant for 1896-97. The increase is due to a provision for the grant of compensation for the dearness of food-grains, for the progressive annual increase of Rs. 28,000 on account of the substitution of Sub-Inspectors for Head-Constables as investigating officers, in accordance with the recommendations of the Police Commission, and larger grants for petty construction, rewards, &c.

29. *Marine.*—The estimate of expenditure for 1897-98 is Rs. 9,11,000, against Rs. 9,21,000, the sanctioned estimate for 1896-97. The decrease is under contributions to the Orissa Port Funds.

30. *Education.*—The grant for expenditure under the direct control of the Education Department was Rs. 27,76,000 in the budget estimate for 1896-97. This has been reduced to Rs. 26,75,000 in the revised estimate, partly in consequence of the absence of officers on furlough, partly owing to grants for apparatus, &c., for the Civil Engineering College not being fully utilized, and partly by reason of savings in the grants for normal or training schools. The estimate for 1897-98 provides for an increase of Rs. 71,000 over the revised estimate, including the following items:—

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	Rs.
(1) Kurseong Boarding School	17,000
(2) Bihar School of Engineering	12,000
(3) Reorganisation of the Education Department ...	17,000

31. *Medical.*—The estimate for 1897-98 amounts to Rs. 19,18,000, against Rs. 19,63,000, the sanctioned estimate for 1896-97. The decrease is due to smaller provision having been made for the renewal of bedding, clothing and instruments in the Calcutta hospitals, and to a reduction in the grant for the Bhawanipur Hospital, the equipment of which was provided for last year.

32. *Scientific and other Minor Departments.*—The estimate for 1897-98 is Rs. 4,55,000, against Rs. 4,35,000, the revised estimate for 1896-97. The decrease in the revised estimate is due to the provision for the up-keep of cinchona plantations and for the purchase of bark not having been fully utilised.

33. *Stationery and Printing.*—The estimate for 1897-98 is Rs. 11,34,000 against Rs. 12,22,000, the estimate for 1896-67. The fluctuations are chiefly in the value of Stationery supplied from Central Stores.

34. *Famine Relief.*—The total expenditure on Famine Relief, as passed by the Government of India, amounts to Rs. 23,00,000 for 1896-97 and Rs. 1,00,48,000 for 1897-98, and their distribution is as follows:—

	1896-97. Rs.	1897-98. Rs.
Imperial	.....	70,13,000
Provincial	18,50,000	22,18,000
Local	4,50,000	8,17,000
Total ...	23,00,000	1,00,48,000

The distribution of the grant under 33, Famine Relief, for 1897-98 in detail of the minor heads is as follows:—

		Rs.
1.	Salaries and establishment in Civil Department ...	5,64,000
2(*a*).	Relief works in charge of Public Works Department ...	39,13,000
2(*b*).	Establishment, tools and plant for Public Works Department	2,75,000
3.	Relief works in charge of Civil Department ...	21,71,000
4.	Relief to people employed otherwise than on relief works	10,93,000
5.	Gratuitous Relief	20,29,000
6.	Miscellaneous	3,000
	Total ...	1,00,48,000

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35. *Irrigation Minor Works and Navigation.*—The chief work included under this head is the conversion into a navigable canal of the Bhangore khal, which forms a portion of the boat route between Calcutta and Eastern Bengal. This was commenced last year and will be completed during 1897-98 at a cost of Rs. 3,78,000. Under agricultural works a provision of Rs. 63,000 has been made for the Bhagwangola embankment designed to control the floods on the Bhagirathi river.

36. *Civil works in charge of Public Works Department.*—The Provincial expenditure under this head has been greatly reduced owing to the restriction of the programme rendered nececessary by the reduction of the Provincial balance in consequence of famine outlay. The allotment includes the following grants for original works:—

	Rs.
Residences for Munsifs	40,000
Repairs of excise buildings	50,000
Parsonage, St. John's Church	25,000
Jail Barracks at Buxar and Bhagalpur	96,000
Subdivisional Residence, Serampore	25,000
Residence for District Superintendent of Police, Noakhali ...	20,000
Land for quarters of Military students of Medical College ...	19,000
New Chemical Block, Medical College, Calcutta	1,25,000
New Pathological and Physiological Block, Calcutta ...	50,000
Fittings, Chemical Block	40,000
Central Lunatic Asylum	1,00,000
Outpatient Department, Medical College	48,000
Ditto Campbell Hospital	20,000
Presidency General Hospital	1,00,000
Land for ditto	45,000
Roads in Western Duars	50,000
Government offices at Chinsura	37,000
Rebuilding Darjeeling Cutcherry	50,000
Record-room, Muzaffarpur	21,000
Total ...	9,61,000

H. H. RISLEY,

Secy. to the Govt. of Bengal.

The 27th March 1897.

BENGAL PROVINCIAL REVENUE.

(In Rupees, omitting 000's, excepting in the Actuals, where 0 is omitted.)

Heads.	Actuals, 1895-96.	Budget Estimate, 1896-97.	Revised Estimate, 1896-97.	Estimate, 1897-98.
1	2	3	4	5
	Rs.	Rs.	Rs.	Rs.
Opening Balance ...	48,32,60	55,51	58,20	41,07
Principal Heads of Revenue—				
I.—Land Revenue { Proper ...	1,01,36,18	1,00,54	1,01,80	1,01,42
I.—Land Revenue { Adjustments ...	—7,19,26	—12,00	—13,64	—7,26
III.—Salt	1,78,41	1,75	1,53	.....
IV.—Stamps	1,25,78,73	1,25,85	1,30,69	1,30,69
V.—Excise	33,44,63	33,25	33,87	67,26
VI.—Provincial Rates	42,77,33	43,20	44,30	42,00
VII.—Customs	91,19	81	94	91
VIII.—Assessed Taxes	23,30,05	23,25	24,50	24,50
IX.—Forests	4,59,35	6,35	6,40	6,50
X.—Registration	6,70,75	6,82	7,50	7,10
Total ...	3,33,47,36	3,29,82	3,37,39	3,72,41
XII.—Interest	2,12,99	2,67	2,45	3,09
Post-office, Telegraph and Mint—				
XIII.—Post-Office	5,29	5	.....	.....
Receipts by Civil Department—				
XVI.—Law and Justice—				
Courts of Law	8,41,22	8,80	8,26	8,30
Jails	8,58,31	8,58	8,89	9,08
XVII.—Police	1,88,76	2,01	1,91	1,80
XVIII.—Marine	9,67,99	9,35	9,64	9,54
XIX.—Education	5,68,41	5,69	5,69	6,27
XX.—Medical	2,09,61	2,05	2,12	2,11
XXI.—Scientific and other Minor Departments	2,35,49	2,34	2,08	2,23
Total ...	38,69,79	38,82	38,58	39,33
Miscellaneous—				
XXII.—Receipts in aid of Superannuation ...	75,50	70	49	60
XXIII.—Stationery and Printing	1,35,66	1,32	1,50	1,34
XXV.—Miscellaneous	10,23,31	8,75	9,28	9,35
Total ...	12,34,47	10,77	11,27	11,29
Railways—				
XXVI.—State Railways (net earnings) ...	43,53,00	36,63	44,50	.....
Irrigation—				
XXIX.—Major Works (direct receipts) ...	15,15,32	16,00	16,90	16,50
XXX.—Minor Works and Navigation—				
By Public Works Department	7,10,54	7,30	6,75	6,60
„ Civil Department ...	84,26	1,09	1,16	1,16
Total	23,10,12	23,39	24,81	24,26
Buildings and Roads—				
XXXII.—Civil Works—				
By Public Works Department ...	2,64,59	1,80	2,28	1,93
„ Civil Department	2,53,83	2,41	2,53	2,52
Total ...	5,18,42	4,21	4,81	4,45
Contributions	8	.....	.....	.....
Total ...	4,58,61,52	4,46,36	4,63,81	4,54,83
Grand Total ...	6,01,73,52	6,01,87	5,22,01	4,95,90

BENGAL PROVINCIAL EXPENDITURE.

(In Rupees, omitting 000's, excepting in the Actuals where 0 is omitted.)

HEADS.	Actuals, 1895-96.	Budget Estimate, 1896-97.	Revised Estimate, 1896-97.	Estimate, 1897-98.
1	2	3	4	5
	Rs.	Rs.	Rs.	Rs.
Direct demand on the Revenues—				
1. Refunds and Drawbacks	1,52,93	1,69	1,82	1,71
2. Assignments and Compensations	1,72,77	1,52	1,58	1,64
3. Land Revenue	37,15,09	37,29	36,70	45,71
5. Salt	52,84	1,03	53	.....
6. Stamps	4,93,04	5,01	5,09	5,27
7. Excise	1,68,01	1,77	1,72	3,57
8. Provincial Rates	60,79	85	75	1,19
9. Customs	7,97,93	8,02	7,61	8,00
10. Assessed Taxes	92,09	95	90	96
11. Forests	2,33,03	3,85	3,38	3,53
12. Registration	4,01,27	4,30	4,17	4,37
Total ...	63,39,79	66,28	64,17	75,95
Interest—				
13. Interest on ordinary debt	1,91,18	2,36	2,18	2,15
Post-office, Telegraph and Mint—				
15. Post-office	4,77	10	5	10
Salaries and expenses of Civil Department—				
18. General Administration	17,49,68	17,09	17,62	17,28
19. Law and Justice { Courts of Law ...	88,26,34	89,81	88,90	89,42
19. Law and Justice { Jails	22,58,55	22,36	24,70	22,82
20. Police	60,38,93	60,40	61,10	61,18
21. Marine	8,73,77	9,21	8,75	9,11
22. Education	26,07,89	27,76	26,75	27,46
24. Medical	18,25,69	19,63	19,44	19,18
25. Political	17,75	28	19	25
26. Scientific and other Minor Departments ...	5,26,63	4,49	4,85	4,55
Total ...	2,47,25,23	2,51,03	2,51,80	2,50,75
Miscellaneous—				
29. Superannuation, &c.	18,47,06	18,90	19,15	20,32
30. Stationery and Printing	10,89,33	12,22	11,00	11,34
32. Miscellaneous	2,81,86	2,47	2,50	2,57
Total ...	32,18,25	33,59	32,65	34,23
Famine Relief and Insurance—				
33. Famine Relief	.....	.....	18,50	22,18
Railways (Revenue Account)—				
41. Miscellaneous Railway Expenditure ...	56	.....	.....	.....
Irrigation—				
42. Major Works—				
Working Expenses	12,98,41	14,65	13,75	14,46
Interest on debt ...	64,95	24,67	24,64	24,64
43. Minor Works and Navigation—				
By Public Works Department ..	,53	18,03	18,00	15,25
„ Civil Department		4	4	8
Total ...	[illegible]	57,39	56,43	54,43
45. Civil Works—				
By Public Works Department ...	30,89,76	43,00	37,17	32,50
„ Civil Department	1,86,40	2,30	2,60	1,36
Total ...	32,76,16	45,30	39,77	33,86
Contributions	12,65,50	11,42	15,39	12,25
Total ...	4,43,53,44	4,67,47	4,80,94	4,85,90
Closing Balance	58,20,08	34,40	41,07	10,00
GRAND TOTAL ...	5,01,[illegible],52	5,01,87	5,22,01	4,95,90
Provincial Surplus (+) or deficit (—) ...	+14,[illegible],08	—21,11	—17,13	—31,07

APPENDIX A.

Bengal Provincial Receipts in detail of minor heads.

[The figures in columns 4 and 5 are those accepted by the Government of India.]

I.—Land Revenue—

HEADS.	Actuals, 1895-96.	Budget Estimate, 1896-97.	Revised Estimate, 1896-97.	Estimate, 1897-98.	REMARKS.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Gross Land Revenue	3,90,52,212	3,89,47,000	3,92,00,000	3,92,50,000	
Deduct 12 per cent. on estimated collections from Government estates (Provincial)	5,05,068	4,90,000	4,90,000	5,40,000	
Deduct on account of recoveries of Bihar survey and settlement charges (Imperial)	22,692	2,00,000	1,50,000	3,00,000	The revised estimate for 1896-97 has been reduced in consequence of the prevailing scarcity.
Total deduction ...	5,27,760	6,90,000	6,40,000	8,40,000	
Net amount divisible between Imperial and Provincial Funds	3,85,24,452	3,82,57,000	3,85,60,000	3,84,10,000	
Provincial share of above (one-fourth)	96,31,113	95,64,000	96,40,000	96,02,000	
Deduct on account of adjustments	7,19,262	—12,00,000	—13,04,000	—7,96,000	
Net ...	89,11,851	83,64,000	83,76,000	88,06,000	
Add 12 per cent. collections	5,05,068	4,90,000	4,90,000	5,40,000	
Total Provincial share ...	94,16,919	88,54,000	87,66,000	93,46,000	

II.—Adjustments—

Fixed contribution to Imperial Revenues under the terms of contract	14,39,000	14,39,000	14,39,000	14,19,000	
Add (payable to Imperial Funds)—					
Interest on the advance for the Hijili Tidal Canal	25,863	30,000	29,000	.....	
Contribution towards the cost of a tower clock to be set at the General Post Office ...	.....	5,000	5,000	.....	
Contribution to Imperial Funds on account of the remission of the deferred Interest on Kiddorpore Dock Loans	.....	.....	2,00,000	.....	
Total to be deducted from the Provincial share...	14,64,863	14,74,000	16,73,000	14,19,000	
Deduct (to be received from Imperial Funds)—					
Advance for the remodelling of the Hijili Tidal Canal	1,46,000	24,000	24,000	.....	
Grant on account of Imperial buildings placed under local bodies	34,181	10,000	40,000	.....	
Salary of a probationer gardener at Sibpur .	584	2,000	1,000	.....	
Repayment of the special contribution taken in 1894-95	3,00,000	.....	... ..	.....	
Grant for the additional establishment entertained in the Calcutta Custom House and in the Board's Office on the introduction of the new Tariff Act	2,28,186	2,12,000	2,12,000	.....	
Towing charges of *Rhotas*	10,000	10,000	10,000	.....	
Assignment for the Gnatong Police Guard ..	15,580	16,000	16,000	.....	
Ditto for the transfer of Mackillop's Hill to Lebong Cantonment	11,000	.....	.....	.....	
Transfer of Observatory buildings, to the charge of Provincial Public Works Department .	.....	.....	1,000	.....	
Special assignment on account of Survey and Settlement expenditure	.....	.....	.....	6,23,000	
Total ...	7,46,601	2,74,000	3,09,000	6,23,000	
Net sum to be transferred ...	7,19,262	12,00,000	13,64,000	7,96,000	

III.—Salt—

HEADS.	Actuals, 1896-96.	Budget Estimate, 1896-97.	Revised Estimate. 1896-97.	Estimate, 1897-98.	REMARKS.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Rent of Warehouses	1,42,000	1,38,000	1,17,000	.....	The receipts in 1895-96 were unusually high.
Miscellaneous	36,000	37,000	36,000	.....	
Total ...	1,78,000	1,75,000	1,53,000	.....	The receipts have been made Imperial under the terms of the new contract.

IV.—Stamps.—

Sale of general stamps	45,44,000	45,08,000	50,56,000	50,56,000	The revenue continues to show a progressive annual increase.
Sale of court-fee stamps	1,10,20,000	1,19,91,000	1,20,70,000	1,20,70,000	
Sale of plain paper to be used with court-fee stamps	2,40,000	2,40,000	2,45,000	2,45,000	
Duty on impressing documents	20,000	9,000	25,000	25,000	
Fines and penalties	28,000	30,000	26,000	26,000	
Miscellaneous	11,000	2,000	3,000	3,000	The actuals of 1895-96 included a special item of Rs. 10,000, representing the security deposit of the late Treasurer of Bankura, forfeited to Government for the loss of a large consignment of one rupee Court-fee stamps.
Total ...	1,67,72,000	1,67,80,000	1,74,25,000	1,74,25,000	
Provincial share (three-fourths) ...	1,25,79,000	1,25,85,000	1,30,69,000	1,30,69,000	

V.—Excise—

License and Distillery fees and Duties for the sale of liquors and drugs	1,01,38,000	1,03,03,000	1,02,30,000	1,02,30,000	
Gain on sale-proceeds of excise opium	17,72,000	17,38,000	17,55,000	17,55,000	
Duty on ganja	14,54,000	12,30,000	13,50,000	14,50,000	The duty on ganja exported to the North-Western Provinces will henceforth be levied in those provinces and this it is anticipated will reduce the receipts by one lakh.
Fines, confiscation and miscellaneous	14,000	32,000	15,000	15,000	
Total ...	1,33,78,000	1,33,00,000	1,35,50,000	1,34,50,000	
Provincial share	33,45,000	33,25,000	33,87,000	67,25,000	Under the terms of the new Provincial Contract half of these receipts will be Provincial instead of one-fourth as hitherto.

VI.—Provincial Rates—

Public Works Cess	41,37,000	41,80,000	42,90,000	40,60,000	Decrease estimated in 1897-98 for scarcity.
General rates for management of private estates ...	1,40,000	1,40,000	1,40,000	1,40,000	
Total ...	42,77,000	43,20,000	44,30,000	42,00,000	

VII.—Customs—

Warehouse and Warf Rents	6,000	6,000	10,000	7,000	
Miscellaneous	85,000	75,000	84,000	84,000	
Total ...	91,000	81,000	94,000	91,000	

VIII—Assessed Taxes—

Heads.	Actuals, 1895-96.	Budget Estimate, 1896-97.	Revised Estimate, 1896-97.	Estimate, 1897-98.	Remarks.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Deductions by Government from salaries and pensions, &c.	4,97,000	4,96,000	5,15,000	5,15,000	
Deductions by Government from interest on Government securities ...	15,000	19,000			
Deductions from salaries, &c., paid by local authority or company ...	60,000	52,000	43,85,000	43,85,000	
Income-tax on securities of local authority or company ...					
Deductions by Government from profits of Railway Companies ...	2,000	2,000			
Ordinary collections ...	40,46,000	40,40,000			
Penalties ...	25,000	20,000			
Miscellaneous ...	14,000	14,000			
Total ...	46,60,000	46,5 ,000	49,00,000	49,00,000	
Provincial share (one-half) ...	23,30,000	23,25,000	24,50,000	24,50,000	

IX.—Forest—

I.—Timber and other produce removed from the forests by Government agency ...	24,000	4,67,800	4,44,800	4,50,000	The increase is due to the sale of sal sleepers to the Railways.
II.—Timber and other produce removed from the forests by consumers or purchasers ...	8,63,000	7,67,800	7,96,800	8,17,000	
III.—Confiscated, drift and half wood ...	9,000	10,300	9,400	9,600	
V.—Miscellaneous ...	23,000	24,100	29,500	23,400	The revised estimate for 1896-97 includes Rs. 5,000 being the sale proceeds of 500 acres of land in the Tista Division.
Total ..	9,19,000	12,70,000	12,80,000	13,00,000	
Provincial share (one-half) ...	4,59,000	6,35,000	6,40,000	6,50,000	

X—Registration—

Fees for registering documents ...	13,87,000	13,10,000	14,45,000	13,65,000	The prevailing scarcity has led to larger registration in 1896-97 but this is not expected to last.
Fees for copies of registered documents ...	21,000	20,000	20,000	20,000	
Miscellaneous ...	33,000	35,000	35,000	35,000	
Total ...	13,41,000	13,65,000	15,00,000	14,20,000	
Provincial share (one-half) ...	6,71,000	6,82,000	7,50,000	7,10,000	

XII.—Interest—

Class I.—Interest on advances to cultivators—					
On advances to cultivators under Land Improvement Loans Act ...	11,000	24,000	24,000	2,55,300	
On advances to cultivators under Agriculturists' Act XXII of 1894 ...	13,000				
Class II.—Interest on advances under Special Loans—					
On Drainage and Embankment Advances ...	35,000	40,000	34,000		
Class III.—Interest on loans to landholders, &c. ...	23,000	5,000	3,000		Decrease due to the repayment of the loan to the Deo Estate.
Class IV.—Interest on loans to Municipal and other Public Corporations (excluding Presidency Corporations) ...	83,000	1,41,000	1,21,000		
Interest on Government Securities ...	11,000	11,000	13,000	11,000	
Miscellaneous—					
Interest on loans of Public Works Cess ...	34,000	42,000	42,000	38,000	
Interest on the capital cost of His Honour the Lieutenant-Governor's house, &c. ...	1,000	1,300	1,000	1,300	Based on actuals.
Other items ...	3,000	1,700	3,000	1,700	
Interest on zamindari embankment recoveries, &c. ...	2,000	1,000	2,000	1,700	
Total Miscellaneous ...	39,000	45,000	47,000	42,700	
Grand Total ...	2,13,000	2,67,000	2,45,000	3,09,000	

XIII.—Post Office—

HEADS.	Actuals, 1895-96.	Budget Estimate, 1896-97.	Revised Estimate, 1896-97.	Estimate, 1897-98.	REMARKS.
1	2	3	4	5	
	Rs.	Rs.	Rs.	Rs.	
Recoveries on account of establishment employed in the Postmaster-General's office	5,000	5,000	.....	.....	These recoveries are now adjusted in the books of the Comptroller of Post Offices.

XVIA.—Law and Justice—Courts of Law—

Sale-proceeds of unclaimed and escheated property	22,000	38,000	28,000	35,000	
Court-fees realised in cash	41,000	34,000	53,000	36,000	
General fees, fines and forfeitures	7,31,000	7,70,000	6,95,000	7,22,000	The actuals show a progressive decrease since 1893-94.
Pleadership examination fees	32,000	28,000	39,000	29,000	
Miscellaneous	8,000	10,000	10,000	8,000	
Total ...	8,41,000	8,80,000	8,25,000	8,30,000	

XVIB.—Jails—

Jails	8,000	8,000	9,000	8,000	
Jail manufactures	8,50,000	8,50,000	8,80,000	9,00,000	Larger receipts anticipated on account of supplies to the Police and Military Departments.
Total ...	8,58,000	8,58,000	8,89,000	9,08,000	

XVII.—Police—

Police supplied to Municipal, Cantonment and Town Funds	19,000	9,000	10,000	10,000	Based on actuals.
Police supplied to Public Departments, private companies and persons	39,000	35,000	35,000	40,000	
Presidency Police	91,000	80,000	1,00,000	90,000	
Recoveries on account of Village Police	3,000	3,000	3,000	3,000	
Fees, fines and forfeitures	27,000	33,000	34,000	28,000	The actuals show a progressive decrease since 1893-96.
Superannuation receipts	1,000	1,000	2,000	1,000	
Miscellaneous	8,000	40,000	7,000	8,000	The estimate for 1896-97 included Rs. 20,000, being the recoveries from Frontier Police for the cost of supplies which are now adjusted in the accounts by a deduction from the expenditure on account of rations.
Total ...	1,89,000	2,01,000	1,91,000	1,80,000	

XVIII.—Marine—

Sale-proceeds of vessels and stores	1,000	3,000	3,000	2,000	
Registration and other fees	40,000	40,000	40,000	42,000	
Pilotage Receipts { Calcutta	8,57,000	8,23,000	8,74,000	8,38,000	The fluctuations depend on the tonnage of vessels visiting and leaving the port.
Pilotage Receipts { Chittagong	16,000	17,000		15,000	
Lead-money of Volunteers	7,000	5,000		7,000	
Miscellaneous.					
Deductions for mess money	10,000	12,000		10,200	
Contribution to life-boat establishment, Gosalundo ...	.....	300		300	
Marine survey	31,000	30,000		35,000	
Other items	6,000	4,700		4,500	
Total Miscellaneous ...	47,000	47,000	47,000	50,000	
Total ...	9,68,000	9,35,000	9,64,000	9,54,000	

XIX.—Education—

Heads.	Actuals, 1896-96.	Budget Estimate, 1896-97.	Revised Estimate, 1896-97.	Estimate, 1897-98.	Remarks.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Fees, Government Colleges, General	1,68,000	1,68,000	1,68,000	1,68,000	Based on actuals.
Fees, Government Colleges, Professional	38,000	38,000	39,000	39,000	
Fees, Schools, General	3,09,000	3,10,000	3,11,000	3,27,000	Increased receipts are expected from the new boarding school for boys at Kurseong.
Fees, Schools, Special	19,000	18,000	18,000	18,000	
Contributions from Native States, private persons and Municipalities	15,000	12,000	12,000	8,000	
Income from Endowments	3,000	10,000	3,000	8,000	
Miscellaneous	15,000	13,000	18,000	19,000	Increased provision made with reference to actuals which show a progressive increase.
Fees from boarders in Eden Hindu Hostel	.....	.....	.....	40,000	This has been entered for the first time in the budget, but will be kept outside the Provincial accounts as the corresponding charges have been kept outside.
Total ...	5,68,000	5,69,000	5,69,000	6,27,000	

XX.—Medical—

Medical School and College Fees...	52,000	48,000	52,000	55,000	Increased provision made with reference to actuals which show a progressive increase.
Hospital Receipts	88,000	90,000	1,00,000	88,000	Based on actuals for 3 years ending 1895-96.
Lunatic Asylum Receipts	31,000	28,000	34,000	29,000	
Contributions from Municipalities and private persons	35,000	34,000	32,000	39,000	
Miscellaneous	3,000	5,000	4,000	4,000	
Total ...	2,10,000	2,05,000	2,12,000	2,11,000	

XXI.—Scientific and other Minor Departments—

Botanic and other gardens	5,000	5,000	5,000	4,850	
Veterinary and Stallion receipts	4,000	4,000	4,000	5,000	
Cinchona Plantation	1,87,000	1,86,000	1,60,000	1,74,100	Reduced provision made, as scarcity will probably reduce the demand for quinine in pice-packets.
Experimental cultivation	1,000	3,000	2,000	2,000	
Emigration fees	31,000	32,000	32,000	32,000	
Examination fees	7,000	4,000	5,000	5,000	
Miscellaneous	.....	.....	.....	225	
Deduct for rounding ...	.....	.....	.....	2,23,175 175	
Total ...	2,38,000	2,34,000	2,06,000	2,23,000	

XXXII.—Superannuation—

Family subscriptions of native members of the Covenanted Civil Service	2,000	1,650	2,000	1,600	
Deduction from Pension Fund, Marine	.....	.....		8,000	
Contributions of officers lent to Municipalities or Corporations	23,000	22,000	47,000	9,000	
Contributions of Officers lent to Foreign Service ...	26,000	35,000		30,000	
Contributions of persons employed by the Court of Wards	19,000	11,000		11,000	
Refunds of gratuities	1,000	350		400	
Miscellaneous					
Total ...	76,000	70,000	49,000	60,000	The smaller estimate under this head is due to a change in the system of adjusting the recoveries of contributions for pension and leave allowances of officers employed on survey and settlement operations in private estates, and in the collection of Road Cess.

XXIII.—Stationery and Printing—

HEADS.	Actuals, 1895-96.	Budget Estimate, 1896-97.	Revised Estimate, 1896-97.	Estimate, 1897-98.	REMARKS.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Stationery receipts	1,000	1,000		1,000	
Sale of Gazette and other publications	98,000	98,000		98,000	
Other press receipts	36,000	33,000		35,000	
Total ...	1,35,000	1,32,000	1,50,000	1,34,000	

XXV.—Miscellaneous—

HEADS.	Actuals, 1895-96.	Budget Estimate, 1896-97.	Revised Estimate, 1896-97.	Estimate, 1897-98.	REMARKS.
Unclaimed deposits	4,54,000	3,70,000	3,86,000	3,90,000	Based on past actuals.
Sale-proceeds of Durbar presents	12,000	10,000	10,000	12,000	
Sale of old stores and materials	42,000	40,000	45,000	42,000	
Sale of lands and houses, &c.	9,000	7,000	7,000	7,000	
Fees for Government audits (of Municipal and Incorporated Local Funds)	69,000	75,000	75,000	70,000	
Rents	26,000	25,000	28,000	27,000	
Miscellaneous fees, fines and forfeitures	2,00,000	1,98,000	2,29,000	2,35,000	The partition fees were very high in 1895-96.
Miscellaneous	1,40,000	1,50,000	1,55,000	1,51,000	
Total ...	10,33,000	8,75,000	9,28,000	9,35,000	

XXVI.—State Railways (Eastern Bengal State Railway System)—

HEADS.	Actuals, 1895-96.	Budget Estimate, 1896-97.	Revised Estimate, 1896-97.	Estimate, 1897-98.	REMARKS.
Gross receipts	1,43,16,000	1,30,00,000	Details not known.	.....	These have been made Imperial from 1897-98 under the terms of the new contract.
Working expenses	56,10,000	56,75,000		.....	
Net receipts	87,06,000	73,25,000	89,00,000	..	
Provincial share (one-half) ...	43,53,000	36,63,000	44,50,000	.....	

XXIX.—Irrigation Major Works (Dir et Receipts)—

HEADS.	Actuals, 1895-96.	Budget Estimate, 1896-97.	Revised Estimate, 1896-97.	Estimate, 1897-98.	REMARKS.
Orissa Canals	4,17,000	3,45,000	4,15,000	4,49,000	The increase in 1896-97 is chiefly in water rates of the Sone Canals due to the large increase in the area under *rabi* crops, the water rates in which did not fall due till April 1896.
Midnapore Canal	2,64,000	2,40,000	2,43,000	2,33,000	
Hijili Tidal Canal	62,000	60,000	85,000	74,000	
Sone Canals	7,72,000	8,55,000	9,47,000	8,94,000	
Total ...	15,15,000	15,00,000	16,90,000	16,50,000	

XXX.—Minor Works and Navigation in charge of the Public Works Department—

HEADS.	Actuals, 1895-96.	Budget Estimate, 1896-97.	Revised Estimate, 1896-97.	Estimate, 1897-98.	REMARKS.
Irrigation and Navigation Works.					
Works for which Capital and Revenue accounts are kept—					
Saran Canal	2,000	.....	6,36,100	10,000	The decrease is due to much of the traffic in jute being carried by rail and steamer.
Calcutta and Eastern Canals	4,56,000	4,50,000		4,30,000	
Orissa Coast Canal	88,000	70,000		78,000	
Total ...	5,46,000	5,20,000		5,18,000	
Works for which only Revenue accounts are kept—					
Nadia rivers	1,20,000	1,70,000		1,00,000	The falling off is ascribed partly to the bad state of the Nadia rivers and partly to the dullness of trade.
Gaighatta and Buxi Khal	5,000	5,000		4,000	
Total ...	1,25,000	1,75,000		1,04,000	
Works for which neither Capital nor Revenue accounts are kept—					
Eden Canal	31,000	30,000	33,500	33,000	
Total ...	31,000	30,000	33,500	33,000	
Total Irrigation and Navigation Works ...	7,02,000	7,25,000	6,69,600	6,55,000	
Agricultural Works.					
Works for which neither Capital nor Revenue accounts are kept—					
Government embankments	5,000	4,000	4,400	4,000	
Takavi embankments under contract ...	4,000	1,000	1,000	1,000	
Total Agricultural Works ...	9,000	5,000	5,400	5,000	
GRAND TOTAL ...	7,11,000	7,30,000	6,75,000	6,60,000	

XXX.—Minor Works and Navigation in charge of Civil Officers—

HEADS.	Actuals, 1895-96.	Budget Estimate, 1896-97.	Revised Estimate, 1896-97.	Estimate, 1897-98.	REMARKS.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Recoveries on account of lands benefited by embankments	75,000	1,05,000	1,09,000	1,03,000	The low actuals of 1895-96 were due to the part realisation of the fixed demand of the year in Midnapore and Champaran. The revised estimate for 1896-97 includes arrear recoveries of 1895-96. The estimate for 1897-98 is based on the fixed annual demand.
Recoveries on account of capitalized maintenance charges of the Dankuni drainage	4,000	2,000	2,000	.....	There will be no receipt on this account, as the realisations will be made in full in 1896-97.
Miscellaneous Receipts of the Dankuni-Howrah, &c., drainages	5,000	2,000	5,000	8,000	The estimate for 1897-98 made up thus. Howrah drainage... Rs. 700; Rajapore ,, ... 3,040; Dankuni ,, ... 4,000; Total ... 7,740
Recoveries on account of capitalised maintenance charges of the Rajapore drainage establishment and contingencies	.....	.....	.....	5,000	Anticipated recoveries on account of maintenance, &c., charges of the Rajapore drainage scheme capitalised.
Total ...	84,000	1,09,000	1,16,000	1,16,000	

XXXII.—Civil Works in charge of the Public Works Department—

Total gross receipts	2,65,000	1,80,000	2,28,000	1,93,000	The increase in the revised estimate for 1896-97 over the budget estimate is due to the increase in profits of the Darjeeling Himalyan Railway during the year, while the decrease in 1897-98 is due to the closing of the Calcutta workshops,

XXXII.—Civil Works in charge of Civil Officers—

Tolls on Ferries	2,53,000	2,38,000	2,50,000	2,50,000
Cemetery receipts	2,000	2,000	2,000	2,000
Miscellaneous	.....	1,000	1,000	.....
Total ...	2,54,000	2,41,000	2,53,000	2,52,000

APPENDIX B.

Bengal Provincial Expenditure in detail of minor heads.

[The figures in columns 4 and 5 are those accepted by the Government of India.]

1.—Refunds and Drawbacks—

HEADS.	Actuals, 1895-96.	Budget estimate, 1896-97.	Revised estimate, 1896-97.	Estimate, 1897-98.	REMARKS.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Land Revenue (one-fourth)	10,000	16,000	23,000	14,000	The actuals of 1895-96 were unusually low, whereas those of 1896-97 are exceptionally high and include a special refund of Rs. 12,000 to Kumar Narapat Singh, of Porahat, representing the surplus balance of his estate which was confiscated and subsequently restored to him.
Stamps (three-fourths)	1,15,000	1,21,000	1,23,000	1,17,000	Will be one half from 1897-98, under the terms of the new contract.
Excise (one-fourth)	1,000	2,000	3,000	6,000	
Assessed Taxes (one-half)	12,000	19,000	14,000	15,000	
Forest (one-half)	.....	1,000	.....	1,000	
Registration (one-half)	1,000	1,000	2,000	2,000	Based on actuals.
Provincial Rates	13,000	8,000	23,000	14,000	
Customs (other than export and import duty) ...	1,000	1,000	1,000	2,000	
Total ...	1,53,000	1,69,000	1,89,000	1,71,000	

2.—Assignments and Compensations—

Malikana	1,73,000	1,52,000	1,58,000	1,64,000	The actuals of 1895-96 include large arrears in the districts of Gaya, Monghyr, Saran, Backergunge, Muzaffarpur, and Noakhali. The estimate for 1897-98 is based on the average actuals of the past five years.

3.—Land Revenue—

Survey and Settlement	.....	.....	.....	8,00,000	Represents charges other than those incurred in Bihar, which will be made Provincial under the terms of the new contract.
Charges of District Administration	31,69,000	32,28,000	31,51,000	32,28,000	
Management of Government estates	4,51,000	4,20,000	4,70,000	4,60,000	
and Records and Agriculture	95,000	81,000	89,000	77,000	
Total ...	37,15,000	37,29,000	36,70,000	45,71,000	

5.—Salt—

Salaries, establishment and contingencies ...	53,000	1,03,000	53,000	.....	The estimate for 1896-97 included provision of Rs. 50,000 for a preventive establishment in the salt tracts outside Orissa, but the establishment has not yet been sanctioned. The charges will be Imperial from 1897-98, under the terms of the new contract.

6.—Stamps—

HEADS.	Actuals, 1895-96.	Budget estimate, 1896-97.	Revised estimate, 1896-97.	Estimate, 1897-98.	REMARKS.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Superintendence	84,000	90,000	78,000	83,000	The decrease in 1896-97 is due partly to less salary drawn by the Officiating Superintendent of Stamps and Stationery and also to savings in the charges for freight and contingencies.
Charges for the sale of general stamps	1,03,000	1,07,000	1,09,000	1,10,000	Based on actuals.
Charges on sale of court-fee stamps	1,21,000	1,22,000	1,29,000	1,26,000	
Discount on plain paper	15,000	15,000	15,000	16,000	
Stamp paper supplied from Central Stores ...	3,34,000	3,33,000	3,38,000	3,07,000	Estimate furnished by the Superintendent of Stamps.
Total ...	6,57,000	6,67,000	6,79,000	7,02,000	
Provincial share (three-fourths) .	4,93,000	5,01,000	5,09,000	5,27,000	

7.—Excise—

Superintendence	60,000	60,000	60,000	77,000	There were increased payments of rewards in 1896-97.
Presidency Establishment	97,000	94,000	1,02,000	98,000	
District Executive Establishment	3,68,000	3,70,000	3,66,000	3,81,000	In the estimates for 1896-97 Rs 30,000 was provided for the construction and repairs of Distillery Buildings, while in the estimates for 1897-98, Rs. 5,000 only has been entered under this head.
Distilleries	1,51,000	1,78,000	1,63,000	1,57,000	
Total ...	6,72,000	7,11,000	6,90,000	7,13,000	
Provincial share	1,08,000	1,77,000	1,72,000	3,57,000	

8.—Provincial Rates—

Collection of rates and cesses		44,500		85,000	
Valuation and re-valuation work...		40,500		34,000	
Total ...	61,000	85,000	75,000	1,19,000	

9.— Customs—

Calcutta	7,58,100	7,54,900		7,56,700	
Balasore	6,200	6,700		7,000	
Chittagong	24,200	30,400		26,300	
Cuttack	7,300	7,600		7,800	
Dacca	700	900		700	
Puri	1,500	1,500		1,500	
Total ...	7,98,000	8,02,000	7,51,000	8,00,000	The decrease in 1896-97 is due to reduced charges for Exchange Compensation Allowance and purchase and repair of boats.

10.—*Assessed Taxes*—

HEADS.	Actuals, 1896-96.	Budget estimate, 1896-97.	Revised estimate, 1896-97.	Estimate, 1897-98.	REMARKS.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Collection of Income-tax	1,84,000	1,91,000	1,81,000	1,92,000	The decrease in 1896-97 was due to the permanent Collector of Income Tax being on deputation and the Officiating Officer drawing less pay.
Provincial share	92,000	95,000	90,000	96,000	

11.—*Forest*—

A.—Conservancy and Works.					
I.—Timber and other produce removed from the forests by Government agency	39,000	2,90,300		1,76,100	Increased outlay is for cutting and delivering sleepers.
II.—Timber and other produce removed from the forests by consumers or purchasers ...	55,000	54,800		65,300	
III.—Confiscated, drift and waif wood	2,000	3,100		2,800	
VI.—Live-stock, stores, tools and plant	10,000	20,600		11,100	
VII.—Communications and buildings	50,000	63,400		82,400	The estimate for 1897-98 includes Rs. 6,000 for a portable tramway in the Darjeeling Division and Rs. 12,000 for the construction of two head-quarters bungalows.
VIII.—Demarcation, improvement and extension of forests	30,000	37,200		43,600	
IX.—Miscellaneous	3,000	2,600		2,700	
Total A.—Conservancy and Works ...	1,89,000	4,72,000		3,84,000	
B.—Establishments.					
I.—Salaries	2,34,000	2,51,800		2,74,400	Increased provision made for the reorganization of the Subordinate Forest Staff sanctioned by the Secretary of State.
II.—Travelling allowance	32,000	34,300		36,900	
III.—Contingencies	11,000	11,900		11,700	
Total B.—Establishment ...	2,77,000	2,98,000		3,23,000	
GRAND TOTAL ...	4,66,000	7,70,000	6,65,000	7,07,000	
Provincial share (*one-half*)	2,33,000	3,85,000	3,33,000	3,53,000	

12.—*Registration*—

Superintendence	54,000	58,000	53,000	57,000	Provision has been made for larger payments under commission to Rural Sub-Registrars and under contingent charges owing to the opening of new offices and the general expansion of the department.
District charges	7,49,000	8,01,000	7,81,000	8,16,000	
Total ...	8,03,000	8,59,000	8,34,000	8,73,000	
Provincial share—one-half	4,01,000	4,30,000	4,17,000	4,37,000	

13.—*Interest on Ordinary Debt*—

Interest on Provincial advances and Loan account...	1,91,000	2,26,000	2,18,000	2 15,000	Both the revised estimate for 1896-97 and the estimate for 1897-98 are based on the estimated mean balance. The rate of interest has been reduced to 3¾ per cent. from 1897-98.

15.—Post Office—

HEADS.	Actuals, 1895-96.	Budget estimate, 1896-97.	Revised estimate, 1896-97.	Estimate, 1897-98.	REMARKS.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Conveyance of Mails South Lushai Hills	3,000	3,800	3,000	3,000	An extra provision has been made on account of the daily postal service between Chittagong and Lungleh.
Establishment in Postmaster-General's and Deputy Postmaster-General's Offices	.....	5,000	.....	.....	No provision necessary, as the charges have been transferred for audit and adjustment to the Postal Department.
Dak establishment	2,000	2,100	2,000	2,100	
		10,100		10,100	
Lump deduction		—100		—100	
Total ...	5,000	10,000	5,000	10,000	

18.—General Administration—

Salary of Lieutenant-Governor (8,333½)	1,01,000	1,00,000	1,00,000	99,000	
Staff and Household of Lieutenant-Governor ..	26,000	27,000	27,000	35,000	The increase in 1897-98 is due chiefly to the increase of Rs. 500 per mensem in the sumptuary allowance of the Lieutenant-Governor.
Tour expenses	38,000	34,000	25,000	34,000	
Legislative Council	24,000	26,000	26,000	25,000	
Civil Secretariate	5,72,000	5,86,500	5,91,000	5,78,000	The increase in 1896-97 is partly due to the payment of privilege leave allowances, to the employment of an officer on special duty and to increased expenditure on postage and contingencies.
Board of Revenue	2,95,000	2,88,700	3,00,000	2,87,000	The increases in 1896-97 are also due to privilege leave allowances which were not provided for in the original estimates.
Commissioners	6,22,000	5,92,800	6,19,000	5,94,000	
Civil Offices of Account and Audit	72,000	74,000	74,000	76,000	
Total ...	17,50,000	17,09,000	17,62,000	17,28,000	

19A.—Law and Justice—Courts of Law—

High Court	11,19,000	11,70,800		11,66,000	
Law Officers	3,07,000	3,09,000		3,15,000	
Coroner's Court	11,000	14,000		7,000	
Presidency Magistrates	67,000	64,800		62,000	
Civil and Sessions Courts	46,84,000	46,88,000		46,86,000	
Courts of Small Causes	1,74,000	1,74,500		1,76,000	
Criminal Courts	23,75,000	24,41,000		24,17,000	
Pleadership examination charges	12,000	12,000		14,000	
Refunds	1,07,000	1,10,000		1,10,000	
Pay of peons	.....	.....		5,000	
Total ...	88,26,000	89,81,000	88,90,000	89,48,000	

19B.—Jails—

HEADS.	Actuals 1895-96.	Budget estimate, 1896-97.	Revised estimate, 1896-97.	Estimate, 1897-98.	REMARKS.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
JAILS—					
Superintendence	56,000	56,825	17,30,000	57,000	
Establishments	5,04,000	5,12,175		5,02,000	
Dietary charges	5,04,000	5,02,000		5,09,000	
Hospital	76,000	65,000		78,000	
Clothing and Bedding of prisoners	91,000	1,07,000		95,000	
Sanitation charges	18,000	15,000		18,000	
Charges for moving prisoners	47,000	42,000		47,000	
Miscellaneous services and supplies	1,04,000	1,91,000		1,26,000	
Travelling allowance	7,000	8,000		8,000	
Contingent charges	61,000	40,000		42,000	The actuals of 1895-96 include charges for which provision has been made under the head Miscellaneous services and supplies.
Extraordinary charges for live-stock and tools and plant	8,000	11,000		12,000	
Total Jails ...	14,75,000	15,51,000	17,30,000	14,94,000	
Jail manufacture	7,83,000	6,85,000	7,40,000	7,38,000	The cost of European stores for the manufacture of chaukidari uniforms was unusually high in 1895-96.
GRAND TOTAL ...	22,59,000	22,36,000	24,70,000	22,32,000	

20.—Police—

Presidency Police	7,54,000	7,82,000	7,74,000	7,58,000	
Municipal Police	35,000	45,000	45,000	46,000	
Superintendence	1,65,000	1,51,000	1,53,000	1,51,000	The increased expenditure in 1895-96 was due to privilege leave allowance which are not provided for in the estimates.
District Executive Force	43,97,000	44,14,000	45,09,000	44,91,000	The revised estimate includes provision for grain compensation allowance. The larger provision in comparison with the actuals for 1895-96 is due to the extra expenditure caused by the redistribution of the Police Force in the Province.
Village Police	23,000	18,000	20,000	20,000	Based on actuals.
Special Police	5,34,000	5,33,000	4,84,000	4,99,000	The Gnatong Police is being amalgamated with the district police, and no provision has been made for it in 1897-98.
Upper Burma Police charges incurred in Bengal ...	.....	.....	.....	14,000	Will be made Provincial under the new contract.
Railway Police	1,21,000	1,15,000	1,15,000	1,30,000	The increase is on account of rent for accommodation of constables.
Cattle pounds	5,000	5,000	5,000	5,000	
Refunds	5,000	7,000	5,000	7,000	
Lump addition for increase to the pay of peons ...	.....	.....	.....	2,000	
Total ...	60,39,000	60,40,000	61,10,000	61,14,000	

21.—Marine—

Heads.	Actuals, 1895-96.	Budget estimate, 1896-97.	Revised estimate, 1896-97.	Estimate, 1897-98.	Remarks.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Salaries and allowances of officers and men afloat ...	63,000	70,000	71,000	69,000	
Victualling of officers and men afloat ...	17,000	20,000	20,000	25,000	Increased provision made in consideration of the rise in the prices of food grains.
Purchase of marine stores and coal for the building, repairs and outfit of ships and vessels	84,000	1,01,000	89,000	90,000	
Purchase and hire of ships and vessels	9,000	20,000	20,000	20,000	
Pilotage, pilot establishments and vessels	5,57,000	5,46,000	5,33,000	5,57,000	
Marine establishments	81,000	87,000	85,000	84,000	
Subsidies to steam-boat companies	24,000	20,000	20,000	20,000	Represents the subsidy granted to the River Steam Navigation Company for the conveyance of mails from Jatiapur to Dibrugarh and back. The actuals for 1895-96 include arrear payments.
Miscellaneous	33,000	51,000	26,000	40,000	The estimate for 1896-97 included a provision of Rs. 25,300 for contribution to Port Funds against Rs. 13,700 provided for in 1897-98.
State Yacht establishment	4,000	5,700	5,000	5,700	
Refunds	2,000	300	...	300	
Total ...	8,74,000	9,21,000	8,72,000	9,11,000	

22.—Education—

Direction	72,000	79,000		66,000	
Inspection	3,37,000	3,42,500		3,39,000	
Government Colleges, General...	5,01,000	5,39,500		5,16,000	
Ditto Professional	1,50,000	1,80,000		1,75,000	
Government Schools, General	5,54,000	5,60,000		5,79,000	
Ditto, Special	1,41,000	1,87,000		1,99,000	
Grants-in-aid	6,14,000	6,25,000		5,98,000	
Scholarships	1,87,000	1,94,000		1,88,000	
Miscellaneous	52,000	56,000		65,000	
Refunds	.....	2,000		1,000	
Lump addition (for the introduction of the reorganisation scheme of the educational services and for increase in the pay of peons)	.....	3,000		20,000	
Total ...	26,08,000	27,76,000	26,75,000	27,46,000	

24.—Medical—

Medical Establishment	6,96,000	7,18,300	7,06,300	6,94,000	
Hospitals and Dispensaries	4,39,000	5,60,300	5,26,000	5,14,000	The estimate for 1896-97 included a special provision of Rs. 57,000 for the purchase of instruments.
Sanitation and Vaccination	2,25,000	2,28,400	2,15,000	2,22,000	
Grants for medical purposes	5,000	3,000	8,000	7,000	
Medical Schools and Colleges	3,04,000	2,93,000	3,13,000	3,14,000	Larger payments on account of scholarships and stipends.
Lunatic Asylums	1,17,000	1,20,000	1,23,000	1,21,000	
Lock Hospital	15,000	16,000	13,000	17,000	
Chemical Examiner	24,000	28,000	32,000	29,000	
Refunds	1,000	1,000	1,000	1,000	
Total ...	18,26,000	19,63,000	19,44,000	19,1[illegible],000	

25.—Political—

HEADS.	Actuals, 1895-96.	Budget estimate, 1896-97.	Revised estimate, 1896-97.	Estimate, 1897-98.	REMARKS.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Entertainment of Envoys and Chiefs	1,000	2,000	1,000	2,000	
Durbar presents and allowances to vakils, &c. ...	9,000	17,000	10,000	14,000	
Miscellaneous	7,000	9,000	8,000	9,000	
Total ...	17,000	28,000	19,000	25,000	

26.—Scientific and other Minor Departments—

Provincial Museums	17,000	18,000	17,000	17,500	
Imperial Institute	.....	500	.....	500	
Donations to Scientific Societies	14,000	16,000	16,000	16,000	Includes a grant of Rs. 2,000 to the Buddhist Text society.
Experimental cultivation	17,000	13,500	17,000	15,000	
Cinchona plantation	2,50,000	1,74,500	1,52,000	1,71,000	The high actuals of 1895-96 are due chiefly to the payment in that year of a portion of the purchase-money of the Nimbong plantation.
Public Exhibitions and Fairs	2,000	2,000	2,000	2,300	
Veterinary and Stallion charges	17,000	18,000	19,000	22,000	Increase due to larger provision for the purchase and keep of cattle.
Botanic and other Public Gardens	1,22,000	1,21,000	1,28,000	1,23,000	
Emigration	23,000	24,500	24,000	23,800	
Inspector of Factories	24,000	22,000	24,000	22,300	
Census	2,000	2,000	2,000	2,000	
Registration of railway traffic	6,000	5,800	6,000	8,500	
Registration of river and road borne traffic ..	18,000	18,000	16,000	17,800	
Provincial statistics	2,000	2,250	3,000	2,500	
Examinations	4,000	5,500	6,000	4,500	
Miscellaneous	6,000	4,000	2,000	4,000	
Refunds	1,000	750	2,000	500	
Inspector of Explosives	2,000	2,400	2,000	2,000	
				4,55,200	
Deduct—For rounding	...	.....	.....	200	
Total ...	5,27,000	4,49,000	4,85,000	4,55,000	

29.—Superannuation—

Superannuation and retired allowances	18,19,000	18,60,000	18,90,000	19,46,000	This is an annually increasing charge.
Marine Department pensions	.....	.....	.....	57,000	These charges will be made Provincial under the terms of the new Provincial Contract.
Compassionate allowances	21,000	23,000	19,000	22,000	
Gratuities	7,000	8,000	6,000	7,000	
Total ...	18,47,000	18,90,000	19,15,000	20,32,000	

30.—Stationery and Printing—

Stationery Office at the Presidency	1,53,000	1,58,000	1,49,000	1,54,000	
Ditto purchased in the country	62,000	70,000	63,000	70,000	
Government presses	3,56,000	3,66,650	3,61,000	3,65,000	The increase is for increased printing work on account of famine.
Printing at private presses	1,000	1,350	2,000	1,000	
Stationery supplied from Central Stores	5,16,000	6,25,000	5,25,000	5,42,000	The estimate of the Superintendent of Stationery for 1896-97 was rather high.
Refunds	1,000	1,000	... ..	1,000	
Total ...	10,89,000	12,22,000	11,00,000	11,34,000	

32.—*Miscellaneous*—

HEADS.	Actuals, 1895-96.	Budget estimate, 1896-97.	Revised estimate, 1896-97.	Estimate, 1897-98.	REMARKS.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Travelling allowances to officers attending examinations	2,000	3,000	3,000	3,000	
Rewards for proficiency in Oriental languages, and allowance to Language Examination Committee	6,000	6,000	6,000	6,500	
Cost of books and publications	1,000	1,000	1,000	1,000	
Donations for charitable purposes	1,34,000	1,03,000	1,05,000	97,000	The increased charge in 1895-96 was due chiefly to the special grant of Rs. 32,000 made in that year for the purchase of land at Gobra for a new Leper Asylum.
Charges on account of European vagrants	7,000	6,000	6,000	6,500	
Rewards for destruction of wild animals	18,000	18,000	15,000	18,000	
Petty establishments	34,000	36,000	39,000	47,000	The increase is for Khedda establishment in Jalpaiguri and Angul.
Special Commissions of Enquiry	14,000	10,000	10,000	10,000	
Irrecoverable temporary loans written off	3,000	3,000	3,000	4,000	
Extraordinary item	4,000	.....	.....	.....	Represents part of a sum of Rs. 5,000 stolen from the Dinajpur Treasury and written off.
Rents, rates and taxes	28,000	35,000	27,000	31,000	
Contributions	15,000	15,000	16,000	15,000	
Miscellaneous and unforeseen charges	1,000	6,000	4,000	8,000	
Miscellaneous refunds	15,000	6,000	15,000	10,000	
Total ..	2,82,000	2,47,000	2,50,000	2,57,000	

33.—*Famine Relief*—

Total charges from General Revenues	.....	...	18,50,000	92,31,000	
Provincial share	.....	.....	18,50,000	22,18,000	

42.—*Irrigation—Major Works (Working Expenses)*—

Orissa Canals	4,42,000	4,94,000		5,67,000	
Midnapore Canal	2,66,000	3,04,000		2,59,000	
Hijili Tidal Canal	59,000	50,000		55,000	
Sone Canals	5,31,000	6,17,000		5,55,000	
Total ..	12,98,000	14,65,000	13,75,000	14,46,000	

42.—*Irrigation—Major Works (Interest on Debt)*—

Orissa Project	10,24,000	10,24,000	10,24,000	10,24,000	
Midnapore Canal	3,39,000	3,30,000	3,29,000	3,29,000	
Hijili Tidal Canal	72,000	72,000	72,000	72,000	
Sone Canals	10,40,000	10,41,000	10,39,000	10,39,000	
Tota ..	24,62,000	24,67,000	24,64,000	24,64,000	

43.—Minor Works and Navigation in charge of the Public Works Department—

HEADS.	Actuals, 1895-96.	Budget estimate, 1896-97.	Revised estimate, 1896-97.	Estimate, 1897-98.	REMARKS.
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
WORKS FOR WHICH CAPITAL AND REVENUE ACCOUNTS ARE KEPT.					
CAPITAL.					
Works in Progress.					
Calcutta and Eastern Canals	1,25,021	4,31,000		3,78,000	
Midnapore Canal	8,345	1,300		.....	
Hijili Tidal ,, ...	1,46,000	24,000		.....	
Orissa Coast ,, ...	39,141	41,000		19,000	
Damodar Project	−1,200	...		.....	
Orissa Canals	3,762	5,000		1,300	
Sone ,, ...	1,744	24,700		18,700	
Total Capital ...	3,22,814	5,27,000		4,17,000	
REVENUE.					
Orissa Coast Canal	67,022	71,000		61,000	
Calcutta and Eastern Canals	2,80,895	2,61,000		1,89,000	
Saran Canals	1,368	900		1,300	
Total Revenue ...	3,49,285	3,32,900		2,51,300	
Total works for which Capital and Revenue Accounts are kept.	6,72,099	8,59,900		6,68,300	
Works for which only Revenue Accounts are kept.					
WORKS IN PROGRESS.					
Nadia Rivers	1,37,459	1,29,000		1,19,000	
Gaighatta and Buxi Khals	13,009	700		1,200	
Total works for which only Revenue Accounts are kept.	1,50,468	1,29,700		1,20,200	
Works for which neither Capital nor Revenue Accounts are kept.					
WORKS IN PROGRESS.					
Eden Canal	56,171	68,600		72,000	
Madhuban Canal	3,808				
Total works for which neither Capital nor Revenue Accounts are kept.	59,979	68,600		72,000	
Total Irrigation and Navigation Works	8,82,546	10,58,200		8,60,500	
AGRICULTURAL AND DRAINAGE WORKS.					
Works for which neither Capital nor Revenue Accounts are kept.					
WORKS IN PROGRESS.					
Government Embankments and Works for the improvement of Government and Escheated Estates.	5,51,393	7,44,800		6,64,500	
Midnapore Takavi Embankments under contract	1,30,594				
Gandak Takavi Embankments under contract ..					
Works in charge of Civil Officers					
Total Agricultural ...	6,81,987	7,44,800		6,64,500	
GRAND TOTAL ...	15,64,533	18,03,000	18,00,000	15,25,000	

43.—Minor Works and Navigation in charge of Civil Officers—

HEADS.	Actuals, 1895-96.	Budget estimate, 1896-97.	Revised estimate, 1896-97.	Estimate, 1897-98.	REMARKS.
1	2	3	4	5	7
	Rs.	Rs.	Rs.	Rs.	
Embankments under the contract system—					
Establishments	1,400	1,452		1,452	
Contingencies		148		148	
Maintenance charges of the Dankuni Canal	2,600	2,400		2,400	
Collection establishment of the Rajapur Drainage Scheme	.....	... .		4,000	
Total ..	4,000	4,000	4,000	8,000	

45.—Civil Works in charge of the Public Works Department—

Original Works	14,22,000	25,09,700	20,12,800	15,10,000	
Repairs	9,41,000	9,80,000	9,64,200	9,97,800	
Establishment	7,49,000	7,22,000	7,15,200	7,12,200	
Tools and Plant	21,000	24,300	24,800	30,000	
Suspense	−43,000	.. ..	.....	.....	
Total ...	30,90,000	43,00,000	37,17,000	32,50,000	

45.—Civil Works in charge of the Civil Department—

Ferry charges	5,000	10,000		10,000	
Refunds of Ferry receipts	29,000	24,000		25,000	
Contributions to Local Funds and Municipalities ...	61,000	50,000		50,000	
South Lushai Hills	56,000	56,000		50,000	
Maidan Square Recreation Ground	14,000	... ..		.....	
Public Works in Angul	19,000	. . ..		... ..	These charges will be adjusted in the Public Works Department books from 1st April 1897.
Ditto in Sikkim	2,000	.....		.....	These charges are being adjusted in the Public Works Department books.
Ditto in the Sibpur Engineering College ..	... ..	90,000		.....	
Total ..	1,86,000	2,30,000	2,60,000	1,36,000	

The Council adjourned to Saturday, the 3rd April, 1897.

CALCUTTA;
The 14th April, 1897.

F. G. WIGLEY,
Offg. Asst. Secy. to the Govt. of Bengal,
Legislative Department.

Reg. No. 45G—300—17-4 97.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met at the Council Chamber on Saturday, the 3rd April, 1897.

Present:

The Hon'ble SIR ALEXANDER MACKENZIE, K.C.S.I., Lieutenant-Governor of Bengal, *presiding.*

The Hon'ble SIR CHARLES PAUL, K.C.I.E., Advocate-General of Bengal.

The Hon'ble NAWÂB SYUD AMEER HOSSEIN, C.I.E.

The Hon'ble M. FINUCANE.

The Hon'ble C. W. BOLTON.

The Hon'ble W. H. GRIMLEY.

The Hon'ble J. G. H. GLASS, C.I.E.

The Hon'ble C. A. WILKINS.

The Hon'ble H. H. RISLEY, C.I.E.

The Hon'ble RAI DURGA GATI BANERJEA BAHADUR, C.I.E.

The Hon'ble J. PRATT.

The Hon'ble SURENDRANATH BANERJEE.

The Hon'ble A. M. BOSE.

The Hon'ble RAI ESHAN CHUNDRA MITTRA BAHADUR.

The Hon'ble GURU PROSHAD SEN.

The Hon'ble MAHARAJA BAHADUR SIR RAVANESHWAR PROSHAD SINGH, K.C.I.E., of Gidhaur.

The Hon'ble M. S. DAS.

The Hon'ble A. H. WALLIS.

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH.

NEW MEMBER.

The Hon'ble MR. PRATT took his seat in Council.

CONDITION OF RAILWAY PLATFORMS.

The Hon'ble RAI ESHAN CHUNDRA MITTRA BAHADUR asked—

Has the attention of the Government been called to the condition of the platforms at Sheoraphuli, Bhaddeshwar, and Khana Junction stations, which

are all so low that ladies can with difficulty get out of the Railway compartments into the platforms, and from them to get into the train? Is the Government aware that Bhaddeshwar is a great place of trade, and that Sheoraphuli is a junction station for the Tarakeswar Railway, and that hundreds of Hindu ladies have daily to make use of the platform of the Sheoraphuli station? Was there not a petition presented to Mr. R. C. Dutt, then Magistrate of Hooghly, for the raising of this platform? Will the Government be pleased to state how that petition has been disposed of, and also to take steps for the removal of the much felt grievance to which I have called attention?

The Hon'ble MR. GLASS replied:—

"The attention of Government has not been drawn to the condition of the platforms at Sheoraphuli, Bhaddeshwar and Khana Junction on the East Indian Railway. It has been ascertained that a petition was presented to the Magistrate of Hooghly some time ago urging that the Sheoraphuli platform be raised: the Railway authorities were addressed in the matter by that officer and asked to take steps to remove the grievance, but apparently no reply has yet been given. The Public Works Department of this Government have also recently addressed the East Indian Railway enquiring what it is proposed to do to improve the platforms, but as the Agent has been absent from headquarters no reply has been received. A reply is, however, expected on his return."

The Hon'ble Mr. RISLEY added some remarks about the condition of the Khana junction platform.

SUBORDINATE JUDICIAL SERVICE.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Will the Government be pleased to state whether the members of the Subordinate Judicial Service who have been appointed Sessions Judges are subject to the same rules as regards leave, travelling and deputation allowances, as Assistant Sessions Judges in Bombay and the Central Provinces?

[*Mr. Bolton; Babu Surendranath Banerjee.*]

The Hon'ble MR. BOLTON replied:—

"The Officers referred to in the Hon'ble Member's first question are members of the Subordinate Judicial Service temporarily appointed to be also Assistant Sessions Judges, and they remain subject to the rules of that service as regards leave and allowances."

The Hon'ble BABU SURENDRANATH BANERJEE asked—

(*a*) In the rules framed by Government in 1894 for the appointment and promotion of officers in the Judicial Branch of the Provincial Civil Service, and published in the *Calcutta Gazette* of the 14th March, 1894, promotion to grades below that on Rs. 600 a month is said to be given ordinarily according to seniority, subject to fitness and approved conduct, while the right to promotion to the senior grades is reserved to the Lieutenant-Governor by special selection for merit without regard to seniority. Will the Government state whether in any case this right has been exercised by the Lieutenant-Governor, and if not, will His Honour now exercise the right with a view to give encouragement to meritorious officers in the service?

(*b*) Will the Government state whether there are any fixed rules for the transfer of Subordinate Judicial Officers? If not, will the Government frame such rules subject to such exceptions as any special case may require?

(*c*) Does priority of registration of the name of a candidate for the Subordinate Judicial Service ensure the appointment of the candidate whose name is thus registered to an acting or permanent Munsifship? If so, will the Government state whether such a rule is observed and appointments are made in accordance therewith?

The Hon'ble MR. BOLTON replied:—

"(*a*) The right alluded to has been exercised by His Honour.

"(*b*) There are no fixed rules for the transfer of officers in the Subordinate Judicial or any other Service, and the Lieutenant-Governor sees no necessity for such rules.

"(*c*) Under the rules for admission into the Judicial Branch of the Provincial Civil Service, priority of entry in the register confers no right of priority of appointment; and a candidate's name

must be struck off the register if he fails to obtain an appointment before he attains the age of 29 years. Other things being equal, priority of registration is taken into account; but it is necessary sometimes to make exceptions, and these may result in particular candidates not securing appointments before they reach the age limit."

ESTATES PARTITION BILL.

The Hon'ble MR. FINUCANE presented the Preliminary Report of the Select Committee on the Bill to amend the law relating to the partition of estates. He said:—

"As we have made numerous alterations in the Bill, we have presented only a preliminary report, and propose to have the Bill re-published. The principal changes which have been made are that we have lowered the limit of partibility of revenue from Rs. 100 to Rs. 20, and we have re-cast the whole of Chapter V regarding the survey and record-of-rights. The Select Committee describe the change made in that Chapter thus:—

'We have re-cast this Chapter. The Bill, as introduced, provided for the making of a complete survey and the preparation of a record-of-rights, including the determination of the status of all tenants and the decision of all disputes by the Deputy Collector, whose decisions were to be deemed to be correct until the contrary was proved and were to be appealable only to the Revenue authorities.

'Under the Bill for amendment of the Bengal Tenancy Act, which is now before the Council, Revenue Officers are to be deprived of the power of deciding disputes as to possession, right and title, and their orders are not to have the force and effect of decrees of a Civil Court. We think that still less should powers to decide disputes be given them in partition proceedings.

'The determination and recording of the status of tenants are not necessary for the purpose of apportioning the revenue of estates under partition, and for this reason, and because the proprietors unanimously object to complicating the proceedings by recording the rights of the tenants, we have omittted this status of tenants from the particulars which the Deputy Collector is to record in making a survey.

'We have provided that the Deputy Collector shall make a survey showing the area of land held by each tenant and prepare a record of existing rents (*i*) as stated by the landlord, (*ii*) as stated by the tenant, and (*iii*) as taken for the purposes of the partition. We have also provided that a copy of extracts relating to their holdings containing these particulars shall

be given to the tenants. We think these extracts will sufficiently protect them against the risk of having the partition proceedings made use of to their detriment. We have attached no special evidential value to the entries made by the Deputy Collector in the survey papers and record of existing rents. They may be referred to by the Courts as evidence of the contemporaneous admissions or allegations of the parties as to the amount of the rent at the time the record was prepared, and as evidence of what was the Deputy Collector's opinion as to the amount of the rent, and no more. We do not think it necessary for the purposes of the partition, or desirable on general grounds, to empower the Deputy Collector to decide any disputes relating to rent or status in the course of partition proceedings, and have modified the Chapter accordingly.'

"The other amendments made by the Select Committee are purely of a technical nature, and I need not take up the time of the Council in referring to them. The Lieutenant-Governor has ordered the Preliminary Report and the Bill as amended by the Select Committee to be published for the purpose of eliciting opinions."

AMENDMENT OF CERTAIN SECTIONS OF BENGAL TENANCY ACT, 1885.

The Hon'ble MR. FINUCANE also introduced the Bill to amend sections 30, 31, 39, 52 and 119 and Chapter X of the Bengal Tenancy Act, 1885, and moved that it be read in Council. He said:—

"SIR,—The duty now devolves upon me to move that the Bill to amend sections 30, 31, 52 and 119 and Chapter X of the Bengal Tenancy Act, 1885, be read in Council. This Bill, with a full statement of its Objects and Reasons, has been in the hands of Hon'ble Members for some days back. Hon'ble Members are aware that the discussions which eventuated in the Bengal Tenancy Act began in connection with a small Bill 'to provide for the more speedy realisation of arrears of rent, and to amend the law relating to rent' which was originally suggested by the Hon'ble Kristo Das Pal, and introduced into this Council in 1878. These discussions were carried on continuously from the date of the appointment of the Bihar and Bengal Rent Commissions in 1878 and 1879, throughout the periods of office of two Viceroys, Lord Ripon and Lord Dufferin, and of two Lieutenant-Governors, Sir Ashley Eden and Sir Rivers Thompson, down to 1885 when the Bengal Tenancy Act was passed.

"Discussions which began with a small Bill for facilitating the realisation of arrears of rent and the settlement of rent, in private estates, by Revenue Officers, ended with the Bengal Tenancy Act. There were some who held at the time that Act was under consideration that the land was the absolute property of the zamindars who were, or ought to be, entitled to do as they pleased with it, and, according to them, the Bill which resulted in the Act of 1885 was of a revolutionary and confiscatory character. There were others who held that by the common law and immemorial custom of India the raiyats were, before the permanent settlement, entitled to hold their lands at the *pargana* rates, which were fixed and unalterable rates, that the permanent settlement was never intended to deprive them of that right, but on the contrary that Lord Cornwallis' intention was to secure the raiyats in the possession of their lands at rates as fixed and unalterable as the revenue payable to the British Government by the zamindars themselves. According to these latter authorities the Act was an earnest but not completely successful attempt to restore to the raiyats of Bengal some of those ancient rights of which they had been deprived subsequently to the date of the permanent settlement and were then being deprived. According to those who held this view the Tenancy Bill of 1885, far from being revolutionary or confiscatory, was, on the contrary, inspired by that spirit of true conservatism, which cuts down the parasite so that the tree may flourish. The Act was a compromise between these conflicting views.

"I think it may be truly said, that no Act passed by the Indian Legislature was ever submitted to such prolonged, careful and searching investigation as the Tenancy Act. No Bill was ever more ably defended, on the one hand, by the eminent men who supported it, and none, on the other, was ever so severely criticised and bitterly opposed by those who were not in favour of it. The result of seven years' discussion was, as I have said, the compromise embodied in the Act as it stands.

"Bearing these facts in mind, it will doubtless be felt by the Council, and outside of the Council, that it is no light matter to re-open discussion on any of the fundamental principles then accepted as a settlement of the questions at issue, and strong reasons will naturally be expected to justify the adoption of such a course.

"These reasons it is my duty, and it will be my endeavour, to lay before the Council.

[*Mr. Finucane.*]

"The literature connected with the Tenancy Act before the date of its passing fills 14 large volumes in the records of the Bengal Secretariat. As Macaulay said in one of his essays, writing of Dr. Nare's Memoirs of Lord Burleigh, compared with the labour of reading through these volumes, all other labour would be agreeable occupation.

"But I trust that it will not be necessary for Hon'ble Members to undergo this labour in order to master the provisions of this Bill.

"Macaulay goes on to tell of a criminal who was suffered to make his choice between reading the works of a certain historian and the galleys. He chose the history; but when he had gone a certain length and came to read of the war of Pisa, it was too much for him. He changed his mind and went to the galleys. I hope that the literature connected with defects, some real and some, as I think, imaginary, discovered within the past five years in the Tenancy Act, and the literature which may spring up from the introduction of this Bill, may not be to those who in the future may have to study the law and literature of landlord and tenant in Bengal, what the war of Pisa was to Macaulay's criminal.

"It is not, as you Sir informed the Council at one of the first meetings over which you presided, the intention or wish of Government now to re-open the whole field of discussion on every question relating to the law of landlord and tenant in Bengal; nor is it intended to open the way to a no-rent agitation on the one side, or an agitation for undoing what was done in favour of the tenantry of Bengal by the Act of 1885 on the other.

"The object of this Bill is to make amendments in certain specified sections with a view to giving effect to the intentions of the authors of the Tenancy Act of 1885, in respect of which sections experience has shown that they were so worded as to give room for misunderstanding of their meaning, or in respect of which, though the meaning and intention are clear, yet the agency and procedure provided for giving effect to them have proved by experience to be unsuitable. It is hoped and intended that the discussions on the Bill may be confined to the particular sections which it is proposed to amend.

"I need not occupy the time of the Council with a lengthened narrative of the origin and history of the present Bill. Among the authors of the Tenancy Act Sir Steuart Bayley was one of the chief. While he was Lieutenant-Governor of Bengal, survey and settlement operations were not undertaken on

so extensive a scale as they have since been, and no great difficulty was experienced in carrying out provisions of Chapter X of the Tenancy Act. The vaticinations of those who predicted that the Act (the operation of Chapter X especially) would convulse society, lower the value of landed property and set landlord and tenant by the ears were all falsified by events. The value of proprietary rights and of tenants' rights has never been higher, the relations of landlord and tenant have never been more harmonious, and never have there been fewer agrarian riots or disturbances in these provinces than since the Tenancy Act was passed. But when Sir Charles Elliott took charge of the administration of Bengal, difficulties arose and discussions took place between Revenue Officers carrying out settlements of rent and revenue, the Board of Revenue and the Bengal Government, which lasted during the whole period of Sir Charles Elliott's administration. The outcome of these discussions was a Minute by the late Lieutenant-Governor, in which he recorded the opinion that the procedure prescribed by Chapter X of the Tenancy Act was too cumbrous, dilatory and expensive to permit of the settlement of rents being carried out under it on a large scale, at a reasonable expenditure of time and money. Sir Charles Elliott, therefore, recommended legislation. At this stage the administration of Bengal was assumed by your Honour, and one of your earliest acts as Lieutenant-Governor was to summon a Conference to Belvedere to consider Sir Charles Elliott's Minute and other documents bearing on the subject of the amendment of the law.

"Both Members of the Board of Revenue, the Revenue Secretaries to the Governments of India and Bengal, the Secretary to the Board of Revenue, the Director of Land Records and some of the Settlement Officers were present at that Conference, and the conclusion almost unanimously agreed to was that Chapter X of the Act and certain other sections required amendment so as to render them more clear and workable. A Minute was subsequently drawn up by Your Honour on the whole subject and a Bill was prepared under your instructions, in which the conclusions come to by the Conference were embodied. The Bill was submitted to the Government of India and by them to the Secretary of State, who, as well as His Excellency the Governor-General in Council, have accorded their sanction to its introduction in this Council.

"It will thus be seen that this Bill is not the work, and does not represent the views, of any particular individual. It is the result of lengthened discussions,

in which various officials and others have taken part, and it represents the mature conclusions to which the Government of India and the Government of Bengal, as a whole, have come after careful consideration.

"I now proceed to explain the changes in the Act proposed to be made by the present Bill, and the reasons for these proposals. They may be divided broadly into three classes, namely, proposals intended—

(1) to clear up doubts and difficulties of procedure which have arisen in the course of experience in the working of Chapter X of the Bengal Tenancy Act, 1885;

(2) to facilitate the settlement of rents when undertaken on a large scale, either for the purpose of settling land-revenue or on the application of private individuals;

(3) to amend the substantive law relating to the enhancement and reduction of rents, so as to make certain provisions of the law workable, and to give effect to the intention of its authors regarding certain points on which, owing to want of sufficient clearness in the wording of the law, or to the interpretations put on it by the Civil Courts, it has been found in practice to be inoperative.

"The principal changes in procedure proposed in Chapter X of the Tenancy Act are these two:—(1) Under the Act revenue officers were intended and empowered to decide all disputes that came before them at any time up to the final publication of the records, in the same way, and following with slight modifications the same procedure, as the Civil Courts, whether such disputes related to possession, right, title, status or any other question that might arise from an entry made or proposed to be made in, or an omission from, the record. Their decisions were to have the force and effect of decrees of the Civil Courts, and were to be subject to appeal only to a Special Judge appointed by Government for the purpose, and from him to the High Court; but it was not intended that the correctness of their orders on any dispute so decided should be liable to be questioned in the ordinary Munsifs' Courts. Now it is proposed that Revenue Officers shall not finally *decide* any questions of the kind, nor are their orders to have the force and effect of decrees of the Civil Courts. When a dispute is raised on any of the classes of questions just mentioned, Revenue Officers will endeavour to ascertain to the best of their ability the true state of things, and

after hearing what the parties concerned have to say, they will pass a summary order directing that entry to be made in the record which appears to them to be the proper one. These entries will be presumed to be correct, but any one who is dissatisfied with them can contest their correctness in the ordinary Civil Courts having jurisdiction to entertain a suit for recovery of rent of the land which forms the subject-matter of the dispute.

"I will explain later on why this change is proposed. Here I merely note the fact.

"(2) The second great change proposed in the procedure prescribed in Chapter X is in the method and agency for the determination of fair-rents. Under the present law, Revenue Officers are bound to settle rents, as in the case of decision of disputes, on the same principles, in the same way, and following the same procedure as the Civil Courts; their final orders or decisions fixing fair rents are appealable to the Special Judge, but no second appeal, as regards the question whether the rent is pitched too high or too low, lies to the High Court against an order of a Revenue Officer fixing a fair rent.

"Under the Bill it is proposed that the orders of Revenue Officers fixing fair rents shall not be appealable to the Special Judge, but to the superior Revenue authorities, and that the finding of the Revenue authorities as to what the amount of the fair rent is, shall be final, except in certain specified classes of cases, in which it is left open to the parties to contest in the Civil Court the orders of the Revenue authorities even as to the amount of a fair rent settled, but only on certain specified grounds.

"If I have succeeded in making these two points clear, it will be manifest in the first place that the Bill not only does not curtail the powers of the ordinary Civil Courts, but, on the contrary, that it actually enlarges the powers of these Courts, that it transfers to them from the Revenue Officers the decision of all disputes involving questions of possession, status, right, and title, that it allows an appeal to the High Court on every point on which an appeal now lies to that Court, and that all it does is to alter the procedure for settlement of rent and to transfer the right of appeal on questions of fixing rents from the Special Judge to the Revenue authorities. It is true it allows no resort to the ordinary Munsiffs' Courts or to the High Court as to the amount of a rent settled, except on certain specified grounds, but neither does the present law.

[*Mr. Finucane.*]

"I now proceed to state reasons why the first of the changes mentioned above, namely, the transference of the decision of disputes to the Civil Courts, is proposed. The framers of the Act of 1885 thought that on a Revenue Officer beginning a record of rights, he would find himself face to face with numerous cases in which, on the one side or the other, the status of the raiyat, the area of the holding, the amount of the rent payable, were the subject of dispute. Unless he could deal with these disputes, the record would, they thought, be of little value, and it was, in their opinion, obviously absurd to empower one officer to settle the question of status and area, and then to send another to settle the question of rent. It appeared to them equally unreasonable to empower a Revenue Officer, with all the parties and witnesses before him, to decide disputes and then to allow the whole matter to be re-opened from the very beginning in a Civil Court.

"The natural result of such a course must, it was supposed, be to leave behind the Revenue Officer a crop of litigation for the Civil Courts to deal with after the Revenue Officer had left. Hence the Select Committee on the Tenancy Bill empowered the Revenue Officers to decide all disputes that might arise out of their own proceedings, instead of leaving them over for the decision of the Civil Courts.

"It will be asked, why is it now proposed to depart from the conclusion then come to in this respect? The answer is—*firstly*, that the Revenue Officers themselves have, in recent years, declared that the burden of deciding questions of possession, status, right and title, following the procedure of the Civil Procedure Code, is too heavy for them, and have begged to be relieved of it; and *secondly*, that the High Court have declared that the class of officers employed on survey and settlement proceedings are unfit for the work of deciding questions of status, right and title.

"In one of their judgments the Hon'ble Judges of the High Court expressed the opinion that the Legislature could not have intended to transfer civil suits as to rights in land between tenant and tenant to the Revenue Officer, and in another they declared that they did not think that the Legislature contemplated the formidable result that officers, such as those entrusted with the duty of preparing records of right, should be permitted to enquire into disputes as to the titles to land of indefinite extent.

"It will be shown presently that the intention of the Legislature in reality was that Revenue Officers should enquire into and decide all disputes coming

before them. But however that may be, the proposals now made in this respect are in accordance with the views of the Hon'ble Judges as enunciated in the decisions to which I have referred, and as they are also in accordance with the wishes of the Revenue Officers concerned, it is hoped that they will meet with general approval.

"The sole objection to this part of the Government proposals is in this, that, as the authors of the Tenancy Act feared, the Revenue Officers will leave after them disputes which they have raised but not finally settled, and as these disputes will, if the parties wish to have them decided at all, have to be decided by the Civil Courts, the suitors, especially those of the poorer classes, may find the cost of litigation in the Civil Courts much higher and the results not more satisfactory than the decisions of the Revenue Officers have been. This is no doubt a serious risk; but the difficulties put in the way of Revenue Officers by the decisions of the superior Civil Courts are so great that some change in the law is considered clearly necessary, and no more satisfactory solution of the problem has in the opinion of Government been suggested than that now proposed in the Bill.

"The difficulties experienced, and the way in which it is proposed to meet them, cannot, I think, be more clearly explained than they are explained in paragraphs 2 to 5 of the Statement of Objects and Reasons, from which the extract which I am about to read is taken :—

'The intention of the framers of the Tenancy Act, as explained in Council by Sir Steuart Bayley, when presenting the Report of the Select Committee, clearly was *that all disputes affecting the record-of-rights or fixation of rents* were to be formally and finally decided by the Revenue Officer, subject only to appeal to the Special Judge, and to a second appeal to the High Court in certain specified cases. Entries in the record, which were not disputed up to the time of final publication of the record, were to be presumed to be correct till the contrary was proved. If a dispute as to any entry in, or omission from, the record arose, it was to be decided by the Revenue Officer, and his decision was to have the force and effect of a decree. So that every entry in the record as finally published was to have attached to it either (*a*) the presumption of correctness, or (*b*) the force and effect of a decree of a Civil Court. Objections might be made at any time during the publication of the draft record, which the Revenue Officer was to summarily hear and consider, and disputes raised at any time before the final publication of the record were to be heard and decided. The distinction between an objection and a dispute was not, however, clearly defined, and the result has been that the Civil Courts have in some cases held that the Revenue Officer

is bound to hear, as civil suits, trifling objections which can be adequately disposed of summarily, to the satisfaction of the parties, without the expense and delay entailed by the formal procedure of a civil suit. On the other hand, where Revenue Officers have heard and decided disputes, following the procedure of the Civil Procedure Code, in which cases it was intended that their decisions should, subject to appeal to the Special Judge, be *res judicata* between the parties, the Civil Courts have in some cases held that their decisions, though not appealed against, were not *res judicata*, that no finality attached to them, and that it was open to the parties to re-open the questions decided in the ordinary Civil Courts.

'Further, the Courts have held, where a survey is ordered to be made, and a record-of-rights prepared, of a particular estate or local area, and a dispute arises as to whether certain lands formed part of that estate or local area, that the Revenue Officer has no jurisdiction to hear and decide the dispute, and that when a dispute arises as to whether land claimed rent-free was properly so held or not, the Revenue Officer has no authority to hear and decide the dispute; and, again, that when a dispute arises as between one landlord and another landlord, or one tenant and another tenant, regarding the ownership or occupation of land, the Revenue Officer has no authority to hear and decide the dispute. It has, in short, been held that the Revenue Officer can only hear and decide a dispute between a landlord and tenant, when the relationship of landlord and tenant is proved or admitted to exist.

'The effect of these decisions is to curtail to a very great extent the powers of the Revenue Officer to decide disputes arising out of his proceedings, to leave gaps in the record-of-rights, and to drive the parties to litigation after the Revenue Officer has left the ground, even as regards matters which he has nominally decided.

'That this was not the intention of the framers of the Act is shown by the following extract from Sir Stouart Bayley's speech in Council in presenting the Report of the Select Committee on the Tenancy Bill as passed :—

"What we have done, then, has been to give the Revenue Officer, in the first instance, power to settle *all* disputes that may come before him. Where no dispute arises, he will record what he finds, he will not alter rents, and his entries will only have a presumptive value in cases afterwards brought before the Courts; where a dispute arises, he will decide it, on the same grounds, by the same rules, and with the same procedure, as a Civil Court. His decision will be liable to appeal like that of the ordinary Civil Court to a Special Judge, who may or may not be the Judge of the district, and will be subject to a further special appeal to the High Court. In appeal, the High Court may settle a new rent, but in so doing is to be guided by the other rents shown in the rent-roll. In other words, there can be no second appeal to the High Court merely on the ground that the rent has been pitched too high or too low, but if a second appeal is preferred, as it may be on the ground that the Special Judge, owing to some error on a point of law, has, for example, found the holding to comprise more land or less land than it actually does comprise, or has given the raiyat a wrong status, and if the appellant succeeds, the High Court can, without altering the rates, reduce or increase the rent, as the case may be.

"The decision of the Revenue Officer in disputed cases, subject to these appeals, will have the effect of a judgment of the Civil Court and will be *res judicata*, thus bearring a fresh suit for enhancement for 15 years."

[*Mr. Finucane.*]

'It is clear that the decisions of the Civil Courts above referred to are not in accord with the intention of the framers of the Act expressed in the preceding extract, and it is thought that if the decisions of Revenue Officers are not to have finality on all questions that come before them, subject to appeal to the Special Judge, it is desirable to relieve them altogether of the duty of deciding disputes as civil suits, and to confine them, in the first place, to the preparation of a record of existing facts, rents and status. This record will be prepared, after careful investigation, under such rules as the Local Government may prescribe. It will be published in draft; objections made to any entry in or omissions from it will be carefully considered and disposed of under such rules as may be prescribed by Government; then it will be finally published, and the presumption of correctness will be attached to entries made in it. If the parties afterwards wish to dispute the correctness of any entry other than an entry of rent settled or any omission, they can do so in the Civil Courts.'

"For these reasons then it is proposed that Revenue Officers shall be relieved altogether of the duty of deciding disputes. They will in preparing records of right confine themselves to ascertaining and recording, to the best of their ability, existing facts of possession and status. Presumptive evidential value of correctness will be given to the entries made by them in their records, and it will be open to the parties concerned to question the correctness of these entries in the Civil Courts.

"I now come to the reasons for the second important change proposed, namely, that in the procedure, method and agency for settling rents. The method of settling rents prescribed in the Tenancy Act is briefly this—the existing rents are presumed to be fair, and any one who wants to alter them has to show, by legal evidence, the grounds of the proposed alteration. The present Act provides that in all proceedings of settlement of rents under Chapter X the Revenue Officer shall, subject to rules made by the Local Government, adopt the procedure laid down in the Code of Civil Procedure for the trial of suits, and their orders fixing fair rents are appealable to the Special Judge. This implies that each individual case must, (subject to joinder of tenants holding under the same landlord in the same village,) be dealt with separately, a separate record being made and the evidence being separately recorded in each individual case. Now when settlements of revenue are being made on a large scale as they are in Orissa and Chittagong, and rents have consequently to be settled for all the tenants of an entire Division containing hundreds of thousands of holdings, it must be manifestly impossible to treat the settlement of rent in the

case of each individual tenant judicially and as a separate civil suit if the proceedings are to be completed within a reasonable limit of time and at a reasonable expenditure of money. Moreover, it is not necessary for the ends of justice to treat each individual tenant's case separately. When, for example, a rise or fall in the prices since the rents were last fixed has been established to the satisfaction of the Court or the Revenue Officer, and an alteration in the rents generally is sought on the ground of rise or fall in prices since the rents were last fixed, it would obviously involve great waste of time and money to record the evidence on the point of alteration in prices over and over in each separate case. The same remark applies to a prevailing rate. If a prevailing rate is once established for a village or local area, it should not be necessary to record all the evidence in support of it over and over again in each individual tenant's case. But it *is* necessary to do this if the judicial procedure is to be followed in the settlement of rents. To meet these and other difficulties, it is now proposed to dispense with the judicial procedure altogether in the settlement of fair rents by Revenue Officers, and to substitute more elastic methods of settling rents under the supervision and control of the Superior Revenue authorities, whose findings will be liable to be contested in the Civil Courts on certain specified grounds and on those grounds only.

"Nobody who has not travelled through Bengal, Bihar and Orissa, and studied on the ground the existing land-tenures, can fully comprehend the immense variety and complication of tenures and of rent systems that prevail in these Provinces.

"In Chittagong, on the one side, small plots of permanently-settled and temporarily-settled lands measuring a half an acre or less—plots of what are known as long-term and short-term taluks, *itmams*, *daritmams*, and various other tenures of the kind, not to speak of plots embraced in ordinary occupancy and non-occupancy raiyats' holdings—are all interspersed like squares on a chess-board in the same village. The same person is often proprietor, and, having created a tenure under himself in favour of another person, then becomes an occupancy tenant under the tenure-holder of his own creation in land of which he is also proprietor.

"In Backerganj there are no less than 13 different grades of intermediate tenure-holders between the proprietor and the actual cultivator, and the same person often holds shares as proprietor and again as tenure-holder under

another tenure-holder and as occupancy raiyat under yet another, all in the same plot of land. To give a concrete example. In a particular estate in that district one Kamiruddin has a small plot of land. He holds a fractional share, represented by $\frac{7021}{12288}$ of that plot as an occupancy raiyat under a *howladar*, a share represented by $\frac{117}{3072}$ under another *howladar* as tenant at fixed rates, $\frac{105}{3072}$ as occupancy raiyat under the same *howladar*, and $\frac{147}{12288}$ as under-raiyat.

"Again in Chota Nagpur, in another direction, rent is assessed not by an acreage rate, but by guesswork according to the number of ploughs the tenant may have or the quantity of seed sown by him. In Bihar, in another direction, the system of tenures is comparatively simple and is analogous to that prevailing in the neighbouring districts of the North-Western Provinces; but even there proprietary interests are extremely complicated, and a proprietor has been known to hold the one-millionth part of an estate, the Government revenue of the whole estate being one anna.

"How is it possible for a Judicial Officer sitting in a Court with no experience of these things to understand these complications of tenures or to fairly assess the rents that they ought to pay?

"But even if an officer sitting in Court could understand the intricacies of tenures, still the assessment of fair rents on a large scale under the procrustean rules of judicial procedure would be extremely difficult.

"As Sir John Shore wrote more than 100 years ago:—'The infinite varieties of soil and further variations of value from local circumstances are absolutely beyond the investigation and almost the comprehension not merely of a Collector, but of any body who has not made it the business of his life.'

"Sir Charles Elliott wrote 80 years later when he was Settlement Officer in the Central Provinces:—'The art of fixing rent is an almost lost one. If you ask any zamindar why such a field pays such a rent, the most intelligent of them can give you no answer but that his fathers fixed it so.'

"Now, such being the complications of tenures and such being the difficulties in the way of settling rents, on a great scale, it is considered by Government that the best agency for overcoming these difficulties is that of Revenue Officers, who can go on the ground, see the land for themselves, observe and ascertain the facts on the land, and consult the people concerned in their villages. It is

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thought that the hard-and-fast rules of the law of evidence and of the Civil Procedure Code are not suited to proceedings of this kind. It follows that it is not desirable to tie Revenue Officers down by the Civil Procedure Code or prescribe any one method of settling rents, and to insist that Revenue Officers shall follow that method only.

"A good Settlement Officer who is tactful and sympathetic will make a good settlement without any law. He will consult the people concerned, be guided largely by what they think, and generally carry them with him. He will recognise the facts that the people who have lived on the land all their lives know very much more than he can of its capabilities, that the present rent is the result of the past history of the holding and of the haggling of all the ages, and he will not, if he is wise, ignore that history or attempt to raise or lower all rents to one dead level according to his own preconceived notions of the fitness of things. The landlords and raiyats are generally reasonable when brought together in their villages, surrounded by their neighbours and restrained by the public opinion of their fellows. Hence it is deemed to be a matter of cardinal importance that officers settling rents should be free to consult the people in their villages, to note what they say, and themselves to observe facts on the spot and make use of the knowledge thus acquired in coming to a conclusion as to what a fair rent would be. But this the law of evidence and the Civil Procedure Code do not allow them to do.

"Again, an inexperienced Revenue Officer may, under the present law, do great mischief either by excessive enhancements or reductions of rent. The superior Revenue authorities have no real control over him under the law as it stands, and his decisions, however manifestly wrong, can only be reversed by a regular appeal to the Special Judge, which appeal can only be made within 30 days of the passing of his order, and when made may take a very long time to decide. Moreover, as I have already indicated, if each and every landlord and tenant in a vast estate or local area under settlement of rents were to contest the Revenue Officer's orders or proposals for settling fair rents, and to fight out every case as a civil suit as they are entitled to do, under the present law, it is clear that the proceedings would be interminable, and the expense intolerable. Happily the raiyats and landlords have not fought out every case. They have generally accepted reasonable proposals; but, admitting this to be the rule, there have

been exceptions where the tenants kept aloof and rents were settled behind their backs, which were manifestly unfair. These rents were not appealed against to the Special Judge within the period of limitation. They became binding on the parties, and the Revenue authorities had no legal power to alter them. The law ought not to be based on the assumption that recourse to it will not be generally needed, and that people will always be moderate and reasonable.

"For all these reasons it is proposed to transfer the control of Revenue Officers in settling rents to the Revenue authorities, who are not to be tied down by the rules of judicial procedure, and it is also proposed to make the method of settling rents more elastic than it now is.

"The proposal as to procedure to be followed by Revenue Officers is that it shall be regulated by rules made by the Local Government, but the principles on which rents are to be settled by them are substantially in accord with the provisions of the present Act regulating enhancement or reduction of rents.

"The new section 104A. of the Bill enables the Revenue Officer to settle rents (1) by compromise, with the assent of the parties, when satisfied that the rents agreed upon are fair and equitable, or (2) to propose rents which, if accepted, may be settled as fair, or (3) to frame a Table of Rates where the conditions are such as to render this practicable, and to apply the rates to areas resulting from survey, or (4) to maintain the existing rents or to enhance or reduce them on the grounds specified in the Tenancy Act, or to settle them partly in one or more of these ways and partly in another.

"The first, second and fourth methods require no justification. They are in accord with the present law. It is obviously right that landlord and tenants should be encouraged to settle their differences among themselves, and that Settlement Officers should endeavour to make proposals which they may accept as being reasonable. It is because we have had Settlement Officers who were guided by these considerations that we have been able to carry on settlements of rent and revenue by amicable compromises on a large scale during the last twelve years. But you cannot always count on Settlement Officers being tactful, or on raiyats and landlords being reasonable, and when the former are injudicious or the latter unreasonable, and recourse to compulsory measures is necessary, it is submitted that the machinery of the law ought to be such as to permit of the vagaries of injudicious Revenue Officers being put straight, and unreasoning raiyats and zamindars brought to listen to reason.

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"It is hoped that Revenue Officers will, in the future, continue to make amicable settlements, as they have hitherto done, but where they cannot do so, then they must have recourse to the third and fourth methods of settling rents. The fourth method merely reproduces the present law. The existing rents are to be presumed to be fair, and are to be enhanced or reduced on the grounds mentioned in Act.

"The system of Tables of Rates is new. That system was proposed originally by the Bengal Rent Commission, but it was abandoned when the Tenancy Act was being passed, because it was thought to be generally impracticable; it was admitted, however, at the time that there were some areas in which it was practicable to frame Tables of Rates. It is believed that this is the case in parts of Orissa, to which Province the Tenancy Act was not extended when passed. The provisions of the Bill for framing Tables of Rates follow to a large extent the proposals of the Rent Commission and those of the Bill of 1884. The Revenue Officer in framing his table is to have regard to the nature of the soil, situation of the land, means of irrigation, and other like considerations. The tables will be published, objections to them considered, and when finally approved by the superior Revenue authorities, they may be presumed to be correct, but the Revenue Officer is not to be bound to apply them in any particular case in which it may be unfair or inequitable to apply them.

"That the Revenue authorities are a more suitable agency for settling rents on a large scale than the Civil Courts has always been admitted, and was expressly asserted both by the Bengal Rent Commission and the Select Committee that reported on the Tenancy Bill just before it was passed. It has always been recognised that Government Officers, in settling rents for the purpose of ascertaining the assets on which revenue is to be based in temporarily-settled estates, should have more discretion in the matter of altering rents than was allowable to private individuals in suits in the Civil Courts. The Bengal Government, however, in 1885, with a view to showing that they claimed nothing in the way of enhanced rents in their own estates or in estates under settlement of revenue, which they were not prepared to concede to private landlords, consented to have the same rules and the same procedure applied to their own estates as were proposed for fixation of rent in private estates; but apparently the difference was not sufficiently considered, between the difficulties of a settlement of rents on a great scale and a settlement of rent of individual

tenants by a Revenue Officer or Civil Court. In individual cases it is easy to follow the procedure of the Civil Procedure Code, but where hundreds of thousands of tenants' rents have to be settled, it is obviously most difficult, if not impossible, to follow the Civil Procedure Code, and to complete the proceedings within a reasonable time at a reasonable expenditure. It is not now, however, proposed to differentiate between the settlement of rents in Government and that in private estates. The procedure proposed for settlement of rents in Government estates and in areas under settlement of revenue will, as heretofore, be open to private landlords if they wish to have recourse to it.

"On the point that Revenue Officers are the best agency for settling rents on a large scale the Select Committee wrote thus:—

'The questions whether a rent is open to settlement, and, if so, the amount at which it should be settled, are of a complex nature depending on two very different sets of considerations. They depend in the first place on issues, relating to such matters as the existence of the tenancy, the extent of the land, the status of the tenant, the conditions under which he holds, &c., and possibly involving points of law, which could not satisfactorily be decided without the security afforded by an ultimate appeal to the highest judicial authority. They depend in the second place on considerations of an economical nature, such as the state of prices prevailing at different periods, the effect of improvements, and so forth, which it is universally admitted cannot be adequately dealt with either in the first instance or on appeal except after local enquiry and by persons possessed of special technical knowledge.'

"The Government of Bengal undertook in 1885 (and it was the only Government in India that had up to that time done so) to settle, by the Agency of Revenue Officers, all rents in areas under settlement of revenue, because it was considered fair to the landlords that the rentals on which the revenue is based should be authoritatively settled and be capable of realisation through the Courts, for otherwise Government might arbitrarily assess its revenue at a certain percentage of arbitrarily assumed rentals when there was no real guarantee that the landlords could realise those rentals. Government also undertook to settle rents on the application of the landlords or tenants in private estates by the same agency, and following the same procedure.

"But if Government is to undertake so great a task, it is clearly necessary that it should have at its disposal workable methods and machinery for performing it. It is submitted that the judicial and the Civil Court procedure, which requires evidence to be recorded in each individual case, does not provide the requisite means for settling rents in the million of holdings of Orissa now

under settlement of revenue, nor in private estates in Bihar and elsewhere, when the landlords or tenants apply for settlement of rents on a large scale.

"I have dwelt on these two points, the transference of the power of settling rents to the Revenue authorities, and the withdrawal of the trammels of judicial procedure among other reasons because, as is well known, the people of Bengal are, as I think rightly, jealous of any interference by the Executive with the powers of the Civil Courts, and it may be supposed that this Bill involves such interference.

"Sir, if there be any two things introduced by the British Government into Bengal, which are held by the people of these Provinces to be sacred and not to be touched by the irreverent hands of the Executive, they are the Permanent Settlement and the independence of the Civil Courts. Your Honour announced in one of your earliest public or *quasi*-public utterances that you had no intention of attempting to interfere with the privileges or to lower in any way the status and dignity of the Judiciary, and you have recently ridiculed the idea of attempting to interfere with the Permanent Settlement. If I may presume to make a remark on these subjects myself, it would be this that I think that the people of Bengal are rightly jealous of the preservation intact of these two great benefits conferred upon them by our Rule. It is, in my opinion, to the permanent settlement that the people of Bengal largely owe that superior prosperity which they enjoy, compared with the natives of some other parts of the Empire, and it is to the reign of law impartially administered that they owe the maintenance of their civil rights. It is submitted that neither the Permanent Settlement nor the jurisdiction of the Civil Courts is affected by this Bill.

"Save in the cases connected with the settlement of land revenue, the Bill does not oust or touch in any way the right of the landlords and tenants to have their rents settled by the Civil Courts if they think fit. Excluding cases connected with settlement of land revenue, it is only on the application of the landlords or tenants themselves that the machinery provided in the Bill for settlement of rents can be brought into motion. The Bill merely offers the landlords and tenants an alternative procedure and agency to that for settling rents of the Civil Courts, and if they prefer the procedure and machinery of the Civil Courts, it will be open to them, notwithstanding anything contained in this Bill, to have recourse to the Civil Courts for settlement of their rents.

fully admit that the people of Bengal, at all events, have confidence, and ightly so, in the decisions of the Civil Courts, but the fact that the rights of over ve million raiyats has been determined, and the rents of one and a half illion raiyats settled by Revenue Officers in Bengal, during the past ten ears, as a rule by consent of the parties to their proposals, without going rough the lengthened formalities of judicial procedure, shows that the people f Bengal have also confidence in decisions and orders of the Revenue fficers properly controlled and guided. Revenue Officers have in Bengal since he passing of the Tenancy Act determined the status and recorded the onts of about five times the number of agricultural tenants, and they have ettled fair rents for one and a half times the number of tenants in Great Britain nd Ireland, together, and this great work has been effected without disurbances or disorder of any kind, while the number of appeals preferred to he Special Judges against their orders and decisions has been infinitesimally mall.

"It is hoped, then, it has been shown, *firstly*, that the Bill does not trench on he jurisdiction of the Civil Courts, but on the contrary enlarges it, and *secondly* hat the Revenue Officers are in a better position to settle rents on a larger scale han the Civil Courts.

"There are other minor amendments proposed in Chapter X, which are lescribed in paragraphs 21 to 31 of the Statement of Objects and Reasons. They are chiefly explanatory of the present law, or consequent on the importnt changes which I have mentioned.

"As I have detained the Council already too long, and other business awaits s, I propose to pass over these minor amendments and to come at once to he third and final object of the Bill, namely, the amendments proposed in the substantive law relating to the enhancement or reduction of rent.

"To avoid trespassing longer on the time of the Council than is bsolutely necessary, it will perhaps be sufficient for me to read paragraphs 14 o 20 of the Statement of Objects and Reasons, in which these amendments are tated, and the reason for them given :—

'14. The third object of this Bill is to amend the substantive provisions of the law elating to the enhancement of rent, so as to make them workable on certain points on which they are now practically inoperative.

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'In suits and proceedings for enhancement of rent on the ground of prevailing rate, the Civil Courts and Revenue Officers are bound to confine their enquiries and comparisons of rates to the same village, and the definition of what is a prevailing rate is so vaguely worded that in practice it is found almost impossible to enhance rents on this ground. A revenue survey village in Bengal may contain 100 acres, or several thousand acres, or may consist of scattered blocks. In does not necessarily furnish a proper standard of comparison. As regards the meaning of the term "prevailing rate" there is only one decision of the High Court bearing on the subject, and that declares that a prevailing rate is *not* an average rate, but does not explain what it is. The view taken by the Special Judges generally has been that a prevailing rate is a uniform rate paid by a majority of the raiyats for lands of the same class in the village. This was the interpretation generally put on the term "prevailing rate "under Act X of 1859.

'15. The effect of the wording of section 30 of the Act, as it stands, is to give a ground of enhancement which cannot be worked.

'It is proposed to somewhat enlarge the area for comparison, while an attempt is made to define what is meant by "prevailing rate" (*see* sections 2 to 4 of the Bill). Whatever objections there may be to this ground of enhancement generally, it is universally admitted that when land is held at a pepper-corn rent by reason of fraud or collusion between the proprietor's *amla* and the raiyats, there is no other ground on which the zamindar can obtain an enhancement up to a reasonable rate, except that of the "prevailing rate," and in such cases it is just that this ground of enhancement should be made a workable one. The intention of the amendments proposed in sections 30 and 31 of the Act, and of the new sections 31A and 31B, is to effect this object, without at the same time endangering the interests of the tenants by making an average rate a prevailing rate, thus rendering it possible to level all the lower rates up to such average rate while maintaining all the higher rates, however much in excess they may be of the average rate. As under the definition now proposed a prevailing rate will always be found where rates exist at all, and the effect of the new definition will be to greatly facilitate the enhancement of rents, and as rents are known to be already too high in certain districts, power is taken by Government to withhold the operation of the new definition from any district or part of a district. In order to guard against all the rates being levelled up to the maximum rate by manipulation of new prevailing rates from time to time, it is provided in section 31B that a prevailing rate once determined shall not be liable to enhancement except on the ground of rise in prices.

'16. It is also proposed to amend section 39 of the Act by repealing the words "prepared for any year subsequnt to the passing of this Act" (*see* section 5 of the Bill). These words were not contained in the earlier editions of the Tenancy Bill, or in the Bill as it came in its final shape from the Select Committee, but were introduced into the Bill as passed, on the motion of Sir William Hunter, on the ground that there were no adequate safeguards for the accuracy of price-lists prepared for periods antecedent to the passing of the Tenancy Act.

But though this may be so as a general rule, it is evident that there are cases in which adequate safeguards of the accuracy of price-lists, prepared for periods antecedent to the passing of the Tenancy Act, may and do exist, and in which the absence of the attachment of a presumption of correctness to lists carefully prepared causes serious injury and unnecessary inconvenience. Where, for example, a settlement of land-revenue or of rents is being made in large tracts, the Revenue Officer, after examination of traders' books of account, oral enquiry from witnesses on the spot, investigation of official price-current lists, jail registers, commissariat accounts, previous settlement records, and all other available sources of information, will, under the control of the Board of Revenue, be in a position to frame sufficiently correct price-lists for passed periods, to which the presumption of correctness may, after local publication and disposal of objections, be safely attached.

'17. It is reasonable that price-lists thus prepared should be capable of being used in evidence in all suits and proceedings for settlement of rent in such areas; but, under the law as it stands, all the information and evidence on which the Revenue Officer may have based his price-lists would, it is believed, have to be put on the record of each individual case, before an enhancement of rent could be based upon them. To remedy this state of things, it is proposed to repeal the words above quoted.

'18. The Local Government may, it is thought, be trusted not to order the preparation or publication of price-lists for past periods where there are no sufficient materials for the preparation of such lists, or no adequate safeguards for their correctness. But where such materials do exist, and there are adequate safeguards for the correctness of the lists, there is no reason why Government should be debarred from ordering the preparation of them, or refusing to attach the presumption of correctness to them when prepared. To prepare price-lists for past periods, which would have no evidential value, would be useless, and, when lists have been prepared after careful local investigation and examination of all available sources of information, to require all the evidence and information on which they have been based to be reproduced on the record of each individual tenant's case, is unnecessary waste of time and money.

'19. An addition is proposed to section 52 of the Act (*see* section 6 of the Bill). It has been held by some Special Judges, interpreting a decision of the High Court, that when additional rent is claimed on the ground of excess area, the landlord must indicate the precise plots or pieces of land acquired by the tenant in excess of the original holding, while section 52 itself does not provide for the assessment to rent of excess lands where there are no rates for lands of a similar description in the vicinity, but lump rentals.

'20. The section, as amended, indicates that it should not be always necessary, in order to prove excess area, to point out the particular plots that were acquired since the original letting, and provides a rule for assessment of such excess areas, when proved, where there are no rates in force. Where the original letting was at so much a bigha, and it is shown by measurement, by the same standard and under the same conditions, that the tenant is holding

a larger number of bighas than he is paying rent for, it should not be necessary for the landlord to point out the particular plots which the tenant has acquired in excess of the original area comprised in his holding.'

"I have now endeavoured to explain, so far as the limits of a speech and the patience of the Council can be expected to permit, all the main provisions of the Bill which, it is hoped by Government, will be generally acceptable to all those who are interested in the land. The Bill, if passed, will facilitate the settlement of rents with a view to the settlement of revenue; it will also facilitate the settlement of rents in private permanently settled estates where the landlords or tenants apply for such settlement; and it will facilitate the enhancements of rent where rents are unduly low, and remove grievances of which the landlords now complain. It does not, it is submitted, trench on the jurisdiction of the Civil Courts, but on the contrary enlarges that jurisdiction. I now move that the Bill be read in Council. If this Motion is carried, the Bill will be circulated and opinions will be invited upon it before it is further proceeded with."

The Motion was put and agreed to.

The Bill was read accordingly.

RAIN-GAMBLING BILL.

The Hon'ble MR. BOLTON moved that the Report of the Select Committee on the Bill for the suppression of rain-gambling be taken into consideration.

The Motion was put and agreed to.

The HON'BLE MR. BOLTON also moved that the clauses of the Bill be considered in the form recommended by the Select Committee. He said:—

"I move, Sir, that the Report of the Select Committee on the Bill for the suppression of rain-gambling be taken into consideration. When introducing the Bill, I fully explained the necessity for legislation and the very limited object for which it had been undertaken, and, with a single exception, no Member of the Council raised objection to this measure, while many Members expressed their strong and cordial approval of

it. Since that date the Bill has been subjected to much opposition and criticism as groundless as it was unexpected, and it is desirable that I should again explain its precise intention and scope. I cannot but think that if its critics had taken the pains to consider carefully its brief provisions, and to read with equal care the report of the proceedings of this Council, the public would have been spared the agitation which has been set on foot, proceeding from misconception of the intention of the Government and imaginary fears. Far-reaching consequences have been attributed to this Bill, which the Government certainly never contemplated, and see now no reason to anticipate. That strenuous opposition should be offered to the measure by those Marwaris who are directly or indirectly interested in the rain-gambling establishments is natural, but it is surprising that they should have received the support of others in protesting against legislation; the more so as the leading members of the Marwari community are anxious that rain-gambling should be suppressed.

"Now, Sir, what are the simple facts of the case? The law of England, the law of India, and, I presume, the law of every country which can lay claim to a civilised and enlightened administration, prohibits the practice of gambling in public or common gaming-houses, kept for the profit or gain of the persons keeping such houses. Apart from its evil consequences, from a moral point of view, such gambling is regarded as a public nuisance, and as a measure of Police, its suppression is enforced. In Bombay public rain-gambling was found to exist, and six years ago its suppression was decreed by an Act of the Legislature of that Presidency. Rain-gambling has existed in Calcutta for many years. It was long confined to the Marwaris, but in recent years it has extended to other classes of the community, and has become a serious scandal. Three public gaming-houses are openly kept in one section of the town, complaints have been made of the evil done to many who resort to them, and of the spreading of this evil to even *purdah nishin* ladies of respectable families through the agency of women employed by the owners of the houses, and the Police have represented that a serious public nuisance exists. Could the Government, consistently with its action in enforcing the law against other common gaming-houses, have persisted in ignoring this state of things? But one answer can be given to the question. The Government was bound to interfere; and it decided to do so. The existing law, however, though its spirit unquestionably condemns this gambling, could not be brought into action, as the definition of

common gaming-houses, framed long before rain-gambling had assumed its present character, does not cover that form of public gambling. It was necessary, therefore, to amend the law, and the present Bill was framed. Its sole and specific object, as the preamble shows, is to secure the suppression of the practice of rain-gambling, and it is inconceivable that any opposition should have been raised to the passing of such a measure, except by those whose profits will disappear with its enactment into law. Objection has been taken to the rapidity with which this Bill is being passed through the Council. The Bill had, in the ordinary course, to be submitted to His Excellency the Viceroy in Council for approval, and this necessarily involved some delay. When that approval was received, no reason whatever existed for deferring the introduction and passing of the measure to another Session. It had, therefore, to be pushed through during the remaining weeks of the present Session. Delay in proceeding with it would have been entirely uncalled for. The facts which rendered legislation necessary were fully ascertained and clear, and further inquiry was superfluous. The Associations interested had been consulted, and had, with a single exception, recommended legislation; and the immediate passing of the Bill could injure only the keepers of the gaming-houses, whose very business it is the object of the Bill to suppress. The suggestion which has been made that this Bill is the commencement of a crusade on moral grounds against all forms of betting or play for money calls for no serious notice. The Government is concerned with this Bill only, and it is designed solely for the suppression of one form of public gambling, and goes not one step beyond the existing law, which leaves other gaming untouched. I trust, then, that the Council will, by its vote to-day, bring these Burra Bazaar gambling establishments within the letter, as they are already within the spirit, of the law against public gambling.

"I confess, Sir, that the Hon'ble Mr. Wallis' object in recording his Minute of Dissent to the Report of the Select Committee is not clear to me. He observes that he disapproves of gambling in any form, and would be only too glad if it could be put a stop to by legislation or otherwise, and yet he takes exception to this Bill, which is designed to suppress one form of public gambling, and the efficacy of which for this specific purpose cannot be doubted. The Hon'ble Member might surely have been expected to receive this Bill with satisfaction and approval. He is thus, I am constrained to remark, inconsistent in his general objection to the Bill; but he is even more so in his special

objection. While expressing a fear that this Bill may be the precursor of repressive legislation against all other forms of wagering, he, at the same time, condemns it as being less comprehensive than the Bombay Act, which includes wagering within the definition of 'gaming', and thus brings wagering of all kinds within the prohibition of the law.

"I must draw attention, Sir, to the notices of amendments for discussion at this meeting, which have been received from the Hon'ble Babu Guru Proshad Sen and the Hon'ble Mr. A. M. Bose. Both Hon'ble Members propose to move that section 47 of Act IV (B.C.) of 1866 and section 6 of Act II (B.C.) of 1867 be repealed. These amendments travel beyond the scope of the Bill, and would materially effect the existing law against public gaming. The Bill before us is one for the suppression of rain-gambling, and it seeks to effect that object by adding rain-gambling to the other forms of gambling which become illegal when practised in common gaming-houses. The proposal to introduce this simple change in the existing law cannot be held to invest this Council with authority to proceed to amend any of the substantive provisions of that law. An amendment of this far wider character would require the sanction of the Governor-General in Council, and that sanction has not been obtained. I must, therefore, apply to you, Sir, to disallow these amendments of the Hon'ble Members before the Select Committee's Report is discussed, and I believe that the Hon'ble the Advocate-General is with me in this matter.

"Two other amendments are proposed by the Hon'ble Mr. A. M. Bose. The first is, I conceive, in order, but it will be my duty to oppose it as entirely unwarranted. The second, which provides for a right of appeal against any conviction for rain-gambling, is both out of order and superfluous. The right of appeal is already given by the Code of Criminal Procedure, and provision for it is not needed in the present Bill. The Hon'ble Member's amendment, being in general terms, would, moreover, have the effect of withdrawing the restrictions on appeal which are laid down for all cases in sections 411 and 413 of the Code. So important a change in the law cannot be discussed in this Council without the sanction of the Governor-General in Council. I would request, therefore, that this amendment also be disallowed."

The Motion was put and agreed to.

[*Mr. Das; Babu Guru Proshad Sen.*]

The Hon'ble MR. M. S. DAS said:—"In the Select Committee we decided that the little word 'anything' should be printed as two separate words. It was the suggestion of the Hon'ble Mr. Wilkins and was approved by all the Members of the Select Committee. I suppose the Secretary will take care that it will be printed as two separate words in the Act."

The point was noted.

The Hon'ble BABU GURU PROSHAD SEN said:—"I wish to show that my amendment is in order. The section, the repeal of which I propose, stands thus in the gambling laws 'When any cards, dice, gambling-table, cloth, boards or table, instruments of gaming are found in a house, etc., etc., etc., it shall be evidence, until the contrary is made to appear that such house, etc., etc., is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming.'

"Under the present Bill the words 'instrument of gambling' as used in that section, will stand extended to include spouts, tanks, &c. To this extent the Bill enlarges the section which I wish to get repealed. Therefore my present motion is an amendment of the Bill and exactly within its scope.

"But I also claim to come under Rule 21 of the Rules for the Conduct of Business.

"I respectfully beg to submit that the rule entitles Members to make original motions in respect of all matters by giving previous notice. If it is to be held that this motion can only be made by obtaining the previous sanction of the Government of India, the right comes to be nugatory, and no such restrictions exist in the rules.

"I submit further that if this Government receives a sanction from the Government of India to make a specific change in a certain law, the whole of that law comes for consideration before the Legislature, and any private member is entitled, under section 21, to bring any other section of the said law for consideration before the Council, and there are good reasons why this should be so. Government wants to enlarge the scope of a Penal Act; Members say: 'You are welcome to do so, but at the same time take away a part of the stringent procedure under which this penal law is enforced.' They say that if there be urgency in the one case, there is urgency in the other.

"They say that 'We cannot consent to the enlargement of a penal law without providing at the same time that the people are not unnecessarily molested by leaving the other portions of the law as it is.'

"The section in the gambling law which I wish to get repealed, refers to a previous section under which search has to be made. Once this search is made and a pack of cards or innocent things like that found, the prosecution case is complete. The onus is shifted, the accused has to prove his innocence, or stand convicted as an offender contrary to all canons of criminal trials as it prevails in this country. It is not that a conviction under the Act is a light matter in India. It is true that there may be a few rupee fine, but a convicted gambler is a marked man in society for all his life long. Happily this much of public opinion we have yet left amongst us.

"It is said that the Indian law is in this respect in accord with the laws of England. The circumstances of the two countries differ. In spite of what Your Honour's Government and the Government of your predecessors have been doing for improving the Police, there is yet admittedly much left to improve, and this much I feel myself justified in saying from my place in the Council that the Police do not yet enjoy the full confidence of our honest people. It is true that the warrant for the search proceeds either from a Magistrate or District Superintendent of Police, who are moved only on credible information; but this credible information on which these authorities are moved, come in the back of the accused, and there is no test of its accuracy nor any punishment laid down for an illegal raid."

The Hon'ble MR. A. M. BOSE said:—"Permit me to add a few words, as the question which has been raised affects also the amendment standing in my name. The Government has submitted this Bill for the suppression of rain-gambling, not in a form complete in itself, not as a complete Bill which defines the offence and provides a procedure and a penalty. It asks the Council to amend the general gaming law that now obtains—to amend the provisions of that law only so far as to include rain-gambling within its scope. Under these circumstances I respectfully submit that it is open to the Council or to any member of it to say that, before the general gaming laws are so amended as to include this particular form of gambling, certain provisions of that law ought also to be amended, and that unless they are amended, this Bill ought not to be passed. I submit that as a matter of order it is open to us to propose such

amendments. Then, with reference to the objection that the sanction of the Governor General has not been obtained to such amendments, I beg to point out that while as a matter of administrative and executive practice Bills are and have to be submitted to the Government of India before introduction in a Local Legislature by the Governments concerned, there is no limitation placed upon amendments which may be proposed by any Member of the Council when the Bill has once been introduced, provided those amendments are germane to the object in hand, there is nothing in any of the 55 Rules which have been laid down for the conduct of business in this Council prohibiting the proposing of amendments unless those amendments have been previously placed before the Government of India. I submit that the proceedings of this Council are regulated by these rules, and that there is no room for doubt upon this point: If the question of order is absolutely clear to Your Honour, I have nothing to say, but if there is any room for doubt, I hope your ruling will be in favour of allowing these amendments to be put so that the matter may be discussed on its merits."

The Hon'ble SIR CHARLES PAUL said:—"I think that both the Hon'ble Members who have last spoken have been labouring under a very serious mistake. I would ask them to take their memories back and remember what the Hon'ble Mr. Bolton has explained very clearly this morning, that the object is to include houses for rain-gambling within the definition of common gaming-house in the existing law. They will find that we are not now amending the substantive portions of the law which is contained in the Acts of 1866 and 1867. We are only extending those provisions to a certain form of gambling, and therefore all that can be urged on the present occasion is that one particular provision shall not apply. The Hon'ble Mr. Bose has very ingeniously put forward an alternative amendment which is not open to the objection; he felt the difficulty of the situation, and hence his amendment. Now he says the law is clear and beyond doubt. As an advocate a man is allowed to assume many things; but when you come to consider the reason of the thing you will see that when we are applying the provisions of the law to other forms of gambling we have really no power to amend that law itself. Both the reasons which have been given by the Hon'ble Member in charge of the Bill are right; first that the amendment is not within the scope of the law, and secondly that we have no power. The complaint made that the Magistrates are shut out from giving their own view of the law is really without foundation."

[*The President.*]

The Hon'ble THE PRESIDENT said:—"I entirely concur in the view which has been taken by the Hon'ble the Advocate-General. This, it must be remembered, is a subordinate Legislature. I have received no permission to amend the Gambling Acts. I have only received specific sanction to include rain-gambling-houses, a certain class of gaming-houses, within the purview of the existing law. I also agree with the Hon'ble the Advocate-General that the Hon'ble Mr. Bose's alternative amendment may be put as it is not out of order. But before formally closing the discussion of this matter, I wish to observe that there has been a good deal of misapprehension as to the scope and aim of this Bill, and especially as to the scope of the section of the law which it is now proposed to repeal. I shall therefore in disposing of this matter finally call attention to what the law really is. It has been said in a facetious article in a newspaper, and it has also been said elsewhere, that under this section of the law the Police may enter the Bengal Club or even Belvedere and seize upon any cards they may find there, and rush off with the members of the Bengal Club and with the Lieutenant-Governor himself and place them before a Magistrate as coming within the purview of this section. Nothing could be more absurd and silly than remarks of that description. Section 6 can only apply to houses which are entered and searched under the provisions of section 5, and searches can only be made under that section when the Commissioner of Police, the District Magistrate or other officer has been satisfied upon reliable information, and after such enquiry as may seem to them necessary, that a certain house, place or enclosure is kept as a common gaming-house. And what is a common gaming-house? It is a house—hell as it is ordinarily called in England—which is run for the benefit and advantage of the owner or occupier thereof. And this provision only applies to houses which have been entered into after full enquiry. And surely common sense tells us that when you have made that enquiry upon information received, if you find instruments of gaming, that is *primâ facie* evidence in the case. The Hon'ble Babu Guru Proshad Sen has observed that the circumstances of India and England are very different, and therefore it is no excuse to say that the provisions of the law have been borrowed from the English law on the subject. But what does the Hon'ble Member say to the fact that all the Legislatures in India have proceeded on the same lines; for that section exists in the Gaming Acts of every presidency—in the Acts passed for the North-Western Provinces, in the Punjab, Bombay, and in Madras and in Burma.

And if the section has been taken from the English Act on the subject, it only shows that the Legislatures in passing that provision were guided by the long experience of the past and by the absolute necessities of the case. I rule the amendment out of order. The Hon'ble Mr. Bose's second amendment is not out of order."

The Hon'ble THE PRESIDENT ruled the following motions to be out of order:—

(1) By the Hon'ble BABU GURU PROSHAD SEN.

That the following section of Act II of 1867 (B.C.) and the corresponding section 47 of Act IV of 1866 (B.C.) be repealed:—

"*Section 6 of Act II of 1867 (B.C.).*—When any cards, dice, gaming-table, cloth, boards or other instruments of gaming are found in any house, tent, room, space or walled enclosure entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, tent, room, space or walled enclosure is used as a common gaming house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate of Police Officer, or by any person acting under the authority of either of them."

(2) By the Hon'ble MR. A. M. BOSE.

That the following section be added to the Bill:—

"Section 47 of Act IV of 1866 (B.C.) and section 6 of Act II of 1867 (B.C.) are hereby repealed."

The Hon'ble MR. A. M. BOSE moved that the following section be added to the Bill:—

"The provisions of section 47 of Act IV of 1866 (B.C.) and of section 6 of Act II of 1867 (B.C.) shall not apply to any offence created by the operation of this Act."

He said:—"Before I make some observations on the amendment itself, I venture to express the hope that at any rate no objection on the merits will be taken to this amendment on the ground that it deals with a special form of gambling, while it leaves untouched the general provisions with regard to gambling. It is not the fault of my amendment if that should be the consequence of its adoption. By the ruling just given, I am limited perforce to the question of rain-gambling. And then I labour under another and an

[*Mr. Bose.*]

unusual disadvantage, namely, I have to follow, Sir, your exposition, partly at any rate, with regard to the merits of the amendment I have to discuss. And if I point out what I submit is the true effect of sections 5 and 6 of Act II of 1867, I do so, I need hardly say, with the utmost possible respect to what has fallen from Your Honour. I am fully aware that the provisions of section 6, for instance, of Act II of 1867 will apply only after search has been made in accordance with the provisions of the previous section 5 of the same Act. I admit that there is a complete procedure as the law stands, and I have to submit reasons why I think it is not a desirable procedure, before I ask the Council to accept my amendment in connection with this Bill for the suppression of rain-gambling. Information is received either by a Magistrate or by some other officer vested with the full powers of a Magistrate or by a District Superintendent of Police as to a certain house being a common gaming-house; he holds a secret inquiry without of course any notice to the accused, and is satisfied or believes that it is a common gaming-house. Then he empowers certain officers of police, not below such rank as the Lieutenant-Governor shall appoint on that behalf—I do not know whether any such rank has been so specified—to enter such house, by force, if necessary, and to make an exhaustive search. Then if this police officer, whoever he may be, says before a Magistrate that he found, and produces, say, a pack of cards as the result of that enquiry and search, it must be taken as evidence, until the contrary is established, that the house is a common gaming-house and every single individual found therein is a gambler. What I wish to specially point out is this, that the previous information upon which the Commissioner of Police, Magistrate of the district or the District Superintendent of Police has been acting would not be before the Court. That previous information is, no doubt, accepted and acted upon by the police. But it is *ex-parte* information. And not only so; but as section 5 provides, it need not be in writing nor on oath. It is information for which nobody may be held responsible or be called to account. It may be that people are actuated by their feelings of enmity with reference to certain individuals, and make statements behind the backs of the persons whom they wish to annoy, and such statements are *primâ facie* accepted as sufficient by the police officer to whom they are made. If the law provided that when the matter comes before the trying Magistrate, that information will have to be repeated subject to the right of cross-examination, the position of affairs would be very different.

[*Mr. Bose.*]

But that is not the case. All that is necessary for the Crown case is for the police officer to state that he has proceeded on certain instruction, and that he found certain instruments of gaming—cards, dice, &c. Then what will happen is this—that will be evidence, until the contrary is made to appear, that the house or place so searched is used as a common gaming-house, and that the persons found in that house are all present there for the purpose of gaming. I regret I have not with me now an extract from the judgment of Mr. Tweedie, late a District Judge, published a few days ago in the papers, in which he pointed out how the matter stood, and how all that was necessary was, not to have the original information tested or even to give any information on that point, but that it was only necessary for the prosecution to prove the two facts I have mentioned, viz., the police searching the house under orders and finding a pack of cards. In such cases the law should not make it obligatory on the Magistrate to presume that it is a common gaming-house, and that the persons present there were present for the purpose of gaming, until the contrary is established by the accused. The law ought to leave unfettered the discretion of the Magistrate as to the amount of weight he would attach to any particular facts bearing on the case. For instance, if, as the result of a search under this Bill, a book is produced containing a record of the bets which are made in the matter of what is called rain-gambling, no doubt the Magistrate will attach the greatest possible weight to that circumstance, and if he is satisfied that the record of bets was so found, he might well hold that, unless that fact is explained away, he will act upon it. If on the other hand what is produced are a pack of cards or dice, or evidence of the existence of a clock or water-spout which are said to be instruments of gaming; if such evidence is given, it will be open to the Magistrate to hold that it does not raise a presumption that the house is a common gaming-house. In ordinary cases under the criminal law matters are left to the discretion of the trying officer who would have all the circumstances of the case before him, and I maintain that the same liberty should be left to the Magistrate in gaming cases also; or in other words, to use the language made familiar by the Evidence Act, instead of the law saying that the Magistrate shall presume guilt until the contrary is made to appear, it ought to be that the Magistrate shall act in every way in accordance with the ordinary law, without any special provision of that kind being needed. Then reference was made to the fact that this is the law in England, and no doubt Hon'ble

[*Mr. Bose.*]

Members will attach great importance to that fact. I trust they will attach the same importance to analogy from English Law when it makes in favour of the liberty of the subject. In the next place I will repeat what fell from my hon'ble friend, Babu Guru Prosbad Sen, that in this particular respect there is an important, a vital, difference in the circumstances of England and India, namely, in the controlling influence of the public press and public opinion and in the constitution of the police force in the two countries. I would also refer to another fact which has reference to the Bill itself, namely, that in addition to Bengal Acts IV of 1866 and II of 1867, there is also an Act of the Governor-General in Council, XXI of 1857, which relates to gaming-houses in the town of Howrah; and there is this important, I was going to say significant, fact, that although it contains all the other provisions of the gaming law, the provisions of section 47 of Act IV of 1866 and section 6 of Act II of 1867 do not find a place in that Act. In Act XXI of 1857 the gaming sections are from section 10 to section 15, and section 12 corresponds to what I have been reading out as section 5 of Act II of 1867; but section 6 of Act II of 1867 is conspicuous by its absence. The important point is that in the gaming law applicable to Howrah the presumption which is contained in section 6 of Act II of 1867 [The Hon'ble SIR CHARLES PAUL said:—"There is nothing said about presumption in the Act."] I submit that it is more than presumption. I am much obliged to the learned Advocate-General for mentioning this fact, because it enables me to refer to the matter at once. What section 6 provides is more than presumption. It enacts, as I have pointed out, that when any cards, dice, gaming-table, cloth, boards or other instruments of gaming are found in any house, tent, room, space or walled enclosure, &c., it shall be evidence, until the contrary is made to appear, that such house, &c., is used as a common gaming-house, and further that the persons found therein were those present for the purpose of gaming, although no play was actually seen by the Magistrate or police officer or by any person acting under the authority of either of them. I was using the word presumption in referring to the provisions of the Act of 1857 for the sake of shortness, but returning to section 6 of Act II of 1867, unless the contrary is proved by the accused, the mere fact of the finding of any of these things upon a search made under the previous section shall be evidence of his guilt. Surely no provision could be more in violation of the rule which requires the prosecution to prove the guilt of the accused, and not the accused to prove his innocence?"

[*The President; Mr. Bose.*]

The Hon'ble THE PRESIDENT said:—"How do you get over this section of the Act of 1857, which provides that 'any person found in any common gaming-house during any game or playing therein, shall be presumed, until the contrary be proved, to have been there for the purpose of gaming?' Is it not possible that the Act of 1867, being 10 years older, proceeds upon more advanced principles of legislation?"

The Hon'ble MR. A. M. BOSE replied:—"The section Your Honour is referring to, is a different section; it provides for the case of people found in a place where play is proved to be actually going on. That makes all the difference. It is a different section altogether which finds a separate place both in Acts IV of 1866 and XXI of 1857."

The Hon'ble THE PRESIDENT said:—"The same idea applies to both cases. People who put themselves into a false position have to take the consequences. I want to point out again that the law attaches a presumption against people found going to such places."

The Hon'ble MR. A. M. BOSE continued:—"The difference is this, that the provisions of section 45 of Act IV of 1866 apply to cases where play is going on, and that being so, the presence of persons there is a presumption, unless the fact is explained away, that they are there for the purpose of gaming. Then, after that comes section 46, which says that a search may be ordered by the Commissioner of Police or by a Magistrate, and then follows section 47, which is the section we are dealing with. I refer to this to show the difference between the provisions in the Howrah Act and the provisions in these two Acts, It strengthens my position in this way. If on the other side of the river it is found that the ordinary rules and practice of the criminal law are sufficient, there is no reason why in Calcutta and other parts of the Province to which those Acts refer, the provisions of the law should be different. These are the reasons why I think it desirable that these sections of Acts IV of 1866 and II of 1867 should not be extended to this Bill for the suppression of rain-gambling. I most cordially support the Bill which has been introduced in this Council; and it is because the existence of these particular provisions provokes, and I believe, justly provokes, the feeling that this law is of a very exceptional character, and also because I believe the ordinary procedure of the criminal law is sufficient for the purpose that I press my amendment

for the acceptance of the Council. Moreover, I have shown that in the case of the town of Howrah these exceptional provisions have not been found necessary, and therefore there can be no necessity for their inclusion in this Bill."

The Hon'ble SIR CHARLES PAUL said:—"I submit that this amendment is as indefensible as those which have been ruled by Your Honour to be out of order. I have often perceived a desire on the part of certain members of this Council to put the hands of the clock back. When we have reached a certain point in legislation, when a certain principle has been adopted in reference to legislation of a certain character as a sound principle to act upon, the legislature has then a standpoint to go upon in the case of future legislation of a similar description. But as I have said, I have noticed on several occassions that when the slightest opportunity is given an attempt is made to go back from that principle. I have heard nothing from the Hon'ble Mr. Bose to justify the omission of section 47 of Act IV (B.C.) of 1866 and of section 6 of Act II (B.C.) of 1867 from their application to this Bill. It is admitted that in every case the administrators who rule over this country have adopted these measures to put down gaming-houses, and every Government and every system of legislation have adopted the rule and have laid down the procedure that if any article of gaming is found in a house which has been searched under the immediately preceding sections of these Acts, the same shall be evidence. Yet without the slightest reason, except some carping reason which I shall refer to later on, the Hon'ble Member wants the legislature to go back; and he has referred to the Howrah Act, XXI of 1857, which, he says, ought to be the model for our legislation. This, I say, is a confession of weakness on his part. If he wanted to strengthen his argument, he might have done so by some thing more important than that legislation for Howrah. I have often heard it said that if you allow the police to interfere, false evidence will be brought forward. If that argument is to have any weight, then the Penal Code and the Criminal Procedure Code and all the laws by which people are brought to justice ought never to have been passed. In the particular instance before us, if false evidence is given, the person upon whose information the police acted is responsible. In one of these Acts the information upon which the police are authorised to act is sworn information; in the other Act it is credible information. I have not the slightest doubt that the Magistrates of this presidency town,

who are gentlemen of honour and independence, will never allow a respectable man's house to be entered falsely without bringing malicious persons to justice; and if you have confidence in them you will not require any other safe-guards than were provided in the law. The second point is this. The Hon'ble Mr. Bose says that as you proceed on information given to the police, you ought to allow the man upon whose information the search was made to be examined and cross-examined. It should be remembered that the result of the information which will be given will be to break up the system under which fortunes are being built up, and would you allow the life of such a man to be at the mercy of the people concerned? Certainly not. The information is for the benefit of the public and therefore is guarded by a certain amount of secrecy. This is a second instance of the desire to disturb one of the principles which has been accepted in all proper forms of legislation and in all civilised administrations. The Hon'ble Member's third argument proceeds upon a misconception. He says if an instrument of gaming is found in a house that has been searched on information which has been given, it shall be a presumption that the person occupying that house at the time are engaged in gaming. The word presumption does not occur in these sections, but the Hon'ble Member explains that away by saying that the section says it shall be evidence until the contrary is proved. That means that the Magistrate shall look upon it as a piece of evidence, but if he considers that the general circumstances of the case disprove that evidence, then it is disproved. I will give an instance. Upon information given under this Bill a house is searched and a clock is found. That is an instrument of gaming under this Bill and therefore is evidence. But that evidence may be rebutted by the person being able to show that the police did not find anything else which may be taken with the clock as an instrument of gaming; then the evidence will be rebutted. I consider that under this Bill people who come forward in the interests of philanthropy and humanity ought to be safeguarded. The liberty of men is guarded by their own conduct; an honest man does not stand in need of such protection as the Hon'ble Mr. Bose thinks he requires; the onus of proof being thrown upon him affects him but in a trivial way. Suppose a man enters the house of a gentleman upon false information and he finds a pack of cards. He can prove that he has no gambling in his house. He can prove that by his servants and by his friends. What grievance is there? The reason why this section has been introduced is this—after a particular

gaming-house has been spotted, the police go there, but the moment they enter everybody disappears. How are they to prove that it is a gaming-house; if the people who were there happen to leave behind them a pack of cards or dice or other instruments of gaming, they can be produced and will be accepted as evidence. I therefore say that section 6 of Act II of 1867 is the result of necessity. It is not an arbitrary power invented by the Government to harass the poor, and I therefore submit the Hon'ble Member is utterly wrong in respect to this particular matter. But I am glad to find one thing, namely, that the Hon'ble Member entirely approves of the Bill; and I may add my testimony that I am wholly in accord with the Hon'ble Mover of the Bill, and I was glad to hear from him a clear, logical and complete statement of the objects of the Bill. It is easy to find fault, if you will not read the speeches of those who bring forward a Bill. Let those who attack the views of the Hon'ble Mover of the Bill study his speeches carefully, and they will find their shafts of ridicule are pointless and their arrows of criticism discharged at the Mover blunted."

The Hon'ble MR. M. S. DAS said:—"At the last meeting of the Council I drew the attention of the Council to the difference between the two Acts with regard to the sections which provide for the initial proceedings under the Act. I did not give notice of any amendment simply because I believe that an amendment would have been out of order. At the same time I believe that if the Council is of opinion that this difference is one that ought not to exist, then, as has been done in previous instances, an amendment ought to be made, if not now, at some future time. With all possible respect to the learned Advocate-General, I must say I do not agree with the reasons he gave to show that there is no difference between the provisions on this point in the two Acts. Credible information is not so good as information on oath; because credible information is not reduced to writing, and a public officer who acts on such credible information cannot be held responsible. I repeat, with all possible respect to the learned Advocate-General, what I said at the last meeting, that if a man's house is to be searched some information should be recorded so that the informer may be held responsible should the search prove that the house is not a common gaming-house. A public servant who acts on credible information should first believe the information to be credible, but there will be nothing on record by means of which the person injured can reach the person who has started the initial proceedings. Credible information may mean information given to the District Superintendent

[*Mr. Das.*]

of Police by his bearer. In the Criminal Procedure Code there is no provision which enables a Magistrate to act upon credible information, but in all cases the information is to be recorded in writing. Here you are to trust to memory, and what can you get from the memory of any public servant after a few weeks as to what he had heard from a particular person? With regard to the amendment before the Council, I wish to add that until yesterday I had not read the Act carefully, and I thought that to allow the mere fact of finding certain things in a house to be used as evidence pointing to the house being a common gaming house and to certain other things is not a reasonable provision; but on looking at the Act carefully, I found that the provision giving power to institute a search is confined to the house having been shown at the outset to be a common gaming-house. So that the Magistrate or Superintendent of Police should be satisfied that a certain house is a common gaming-house, and. Has any search is made and instruments of gaming are found, the things so are legislat- be evidence, until the contrary is proved, that the house is a common gaming house. I think that under these circumstances it is not at all unnatural or unreasonable or contrary to known principles of law to admit what is found in the search as evidence of the facts that the house is a common gaming-house, and that the persons found there were there for the purpose of gaming. As pointed out by the learned Advocate-General, there is nothing said in the law about presumption, but is it not a fact that even under the law of evidence there is a presumption—not only evidence, but presumption—raised against a man in whose house a certain thing is found which had been stolen from another man's house. The law says he must be presumed to be the thief or the receiver of stolen property, and the onus is shifted to the accused. There the law is as strong as in this case. Suppose we see a man coming out of a liquor shop with a bottle under his arm, nobody would think it unfair to presume that he had been there to have a drink. Therefore there is nothing unreasonable in these sections. They simply say that these things shall be evidence, not conclusive evidence, but they shall be evidence only. They do not go the length of specifying what will be the weight of that evidence. It may not be worth the paper upon which it is recorded when other surrounding circumstances are taken into consideration. Admitting for the sake of argument that it is a section which lays down something which is opposed to the general principles of law, I do not understand

[*Mr. Das; Babu Guru Proshad Sen.*]

upon what ground an exception should be claimed in favor of rain-gamblin only. If the principle is wrong, it ought not to apply to any sort o gambling; but, as has been pointed out by the learned Advocate-General, we have arrived at a certain stage of legislation, having gone a certain distance and laid down certain accepted principles of law, we ought not to go back; and if we ought not to go back absolutely and entirely, the Hon'ble Mover of the amendment has not made out a case why exemption should be claimed in favour of rain-gambling, unless it be on the ground that it is a new offence. If it is new to this Council it is old to this town, it having existed here for the last 60 years. Under these circumstances I do not think this amendment should be allowed. It has been said by the Hon'ble Mover of the amendment that it would have been a partial mitigation of the severity of the law if the person who gave [illegible] ere subjected to cross-examination at a subsequent stage [illegible] Bill. Let those [illegible] gs, but I submit that in such a case it would be almost useless [illegible]y his speeche[illegible] mation of this kind to be given. And after all what is found is [illegible]tless and th[illegible] used as evidence; therefore, if any precautions should be taken, they sho[illegible] be taken before the initial proceedings are entered upon, and it is [illegible] this ground that I say that the Mufussal Act should be modified so as to put it in conformity with the Calcutta Act, which requires the information to be given on oath."

The Hon'ble BABU GURU PROSHAD SEN said:—"The hardship in the present case lies in the fact that after the search is made if anything is found there, cards and things of that kind, a clock or a register of bets, the case for the prosecution is complete against all-comers. It is true that the accused is allowed to prove the contrary, but the accused can only prove his innocence by bringing forward the persons who were present there, but those very persons are laid hold of as offenders as being present in a common gaming-house for the purpose of gaming. I think under the circumstances it is rather hard on the accused to be called upon to prove his innocence. I can well understand that there may be certain cases of emergency when a stringent law like this may be necessary. But I submit that it is not at all necessary in this case. The houses where rain-gambling is carried on are well known and probably will have to be shut up as soon as this Bill is passed. But the section no doubt will be applied to other houses. Moreover a conviction under this clause is not a very light affair. It makes a man a marked man in society for all his life to

[*Babu Guru Proshad Sen; Rai Eshan Chundra Mittra Bahadur; Mr. Bolton.*]

come as a *juaree*, a gambler, and anything that is calculated, even in the smallest degree, to make our penal laws unworkable by the stringency of their provisions ought not to be enacted. But the further question is whether this particular provision while it remains in the general law of gambling ought to be excluded from the operation of this special law for the suppression of rain-gambling. I submit that because it exists in the general law it is no reason why it should apply to this law, which we are enacting for a special purpose, and with respect to which this is the opportunity when the people should be safe-guarded from the hands of the police."

The Hon'ble RAI ESHAN CHUNDRA MITTRA BAHADUR said:—"The question is whether this clause should be added to this Bill to safeguard, as it is said, the liberties of the people. If we admit that this rain-gambling is a nuisance, and a public nuisance, I do not see why this public nuisance should be exempted from the laws relating to other kinds of gambling. Has any special case been made out in favour of rain-gambling? We are legislating on a particular subject, and the question is why the provisions of section 6 of Act II of 1867, which has existed for about 30 years, should not be made applicable to this Bill. If it is not to be put into force, we should not legislate at all on the subject of rain-gambling. If the police are not to interfere, let us drop this Bill. But if it is an offence and a nuisance, as it no doubt is, I do not see why it should be exempted from the application of a portion of the general law on the subject. The finding of certain things will only be evidence. It will be for the Magistrate to decide what weight to give to that evidence. No Magistrate would convict simply on the finding by the Police of certain instruments of gaming. I shall certainly vote against the amendment."

The Hon'ble Mr. BOLTON said:—"The Government has introduced this Bill because rain-gambling comes within the spirit of the existing law, and should be [illegible]ated like other forms of gambling, when carried on in a common gamin[illegible]se. Nevertheless, this motion is brought forward in order to make [illegible]on in favour of rain-gambling by repealing, with reference to it, two [illegible] of the existing law against public gaming. In other words, it is [illegible]d to establish a difference between rain-gambling and other forms of [illegible]ing, when the very reason for this Bill is that no such difference exists. [illegible] this ground alone I submit that the motion should be rejected."

[*Mr. Bose.*]

The Hon'ble Mr. A. M. BOSE in reply said:—"I confess that I have now to meet the very heavy artillery of the learned Advocate-General. The first remark the learned Advocate-General made was this, that whenever a measure is introduced with reference to some previous Act of the legislature, an attempt is made to upset it. [The Hon'ble SIR CHARLES PAUL said:—"I said I have observed it on many occasions; I did not say whenever."] With regard to that I say that if the occasion be such that the experience which has been gained since the time of the previous legislation seems to justify an alteration in the law, such alteration should be made. But curiously enough it so happens in the present case that instead of trying to upset early legislation on the subject, I am really asking the Council to go back to it. If my amendment is opposed to the provisions of the Bengal Council Acts of 1866 and 1867, it is in conformity, as I have pointed out, with the previous legislation of 1857, which rests on the authority of the Government of India itself. Therefore I claim that I stand in regard to this matter, so far as this Province is concerned, on ancient ways, and am further supported by high authority. Then it has been said that my amendment implies want of confidence in the Magistrates. On the contrary, my amendment is based on confidence on the trying officers; all I ask is that the Magistrates should be trusted to exercise the discretion which is vested in them unfettered by any arbitrary rule. What I seek is that it should be left to the discretion of the Magistrate to decide in each case what weight should be attached to the things found, having regard to all the features and circumstances of the case and the value of the thing found, whether it is used exclusively for purposes of gambling or for other purposes. I ask the legislature to trust the Magistrate to decide upon that question. That is the very point of my amendment. It was then said that this provision is, as it were, really the result of necessity. I submit that that has not been shown, nor has there been made even any attempt to do so. If there had been a representation from Howrah that in working their law, which has stood for the last forty years on this footing, some difficulty has been experienced owing to the absence of such a provision, that would have been some proof of the necessity for such legislation; and I submit it is incumbent upon the Government to produce such evidence before the Council is asked to apply the special provisions of section 6 of Act II of 1867 to this Bill. No doubt it may make a conviction easier. It may be said with regard to the operation of the excise

[*Mr. Bose; the President.*]

laws that there are often difficulties in the way of conviction. But that cannot be helped. The liberty of the subject ought not to be imperilled because of the existence of difficulties, and some precautions ought to be taken to secure proper evidence. In this connection it is necessary again to refer to the language of the Act of 1867. I say that the insertion in that Act of the words 'until the contrary is made to appear' is not simply for the purpose of making the thing admissible in evidence, but these words at once indicate the meaning of the section to be that there shall be a presumption which is to be rebutted by the accused. Then the last objection which was urged by some Hon'ble Member, it has been said, is this, that my amendment would introduce a bit of special legislation. Has any reason been shown, why the offence of rain-gambling should be taken out of the general provisions of the law, or that it should meet with exceptional treatment? I thought that in my opening remarks I had met that objection. The reason why this amendment confines itself to rain-gambling is, as we have been told, that the question of the amendment of the gaming law is not before us; and therefore we cannot introduce an amendment which would alter any portion of the general gaming laws. This objection ought not to apply to my amendment, the form of which is due to the way in which this Bill has been framed. If a complete measure in regard to rain-gambling had been introduced, it would not have been necessary for me to move that that section of the general law should not apply. It would have been enough for me to confine myself to the provisions of the Bill itself; but owing to the way in which the Bill has been prepared I cannot touch the provisions of the general gaming law, but can only move as an amendment to this Bill that this particular section shall have no application to offences created under it. With regard to the observations which have fallen from the Hon'ble Mr. Das, I agree with what he said that as the credible information depends only upon the belief of the Magistrate or Superintendent of Police, much weight cannot under the circumstances attach to such evidence."

The Hon'ble THE PRESIDENT said:—"Before putting this amendment I will say one word. The Hon'ble Mr. Bose has made a great deal out of the provisions of the Howrah Act which was passed in 1857, but he ignores the fact that there has not been a single Legislature that has followed the line taken in that Act, and the experience of all countries and all Legislatures shows that

a provision of the kind contained in this Bill is absolutely necessary to effectually put down these gambling hells. I have not the least doubt that if this Bill was sent up to the Government of India with this amendment in it, the whole Bill would be vetoed."

The Motion was put and negatived.

The Hon'ble MR. A. M. BOSE moved that the following section be added to the Bill:—

"The accused shall have the right of appeal against any conviction for an offence created by the operation of this Act."

He said:—"I submit that this amendment is not out of order. In enacting a special law or creating a special offence, as we are doing by this Bill, it is I submit on grounds of common sense open to the Legislature creating that offence to lay down any special procedure in regard to its trial or sentence or appeal, should any such provision be deemed desirable by it. Otherwise the whole proceeding might be a mockery or involve grave injustice. And as we should expect, this power is expressly recognised by sections 5 and 404 of the Criminal Procedure Code. On every ground therefore I submit my amendment which is an important one, which seeks to provide a right of appeal in cases of conviction under this Bill, and which, I may observe in passing, is in exact accordance with the provisions of the English law on the subject, is in order and ought to be allowed to be discussed."

The Hon'ble THE PRESIDENT said:—"We are a subordinate Legislature, and the Members of this Council are not entitled to deal with matters which do not come before them in the regular course. I have no authority to restrict the jurisdiction of the Presidency Magistrates or to deal with the law of appeal. We have only received sanction to amend the law in a specific way, and I am not going to take the risk of allowing a provision like this to be introduced. I therefore rule this amendment to be out of order."

The Motion was therefore ruled out of order.

The Hon'ble THE PRESIDENT said:—"I have an amendment to propose myself in the preamble and title of the Bill. I want to propose that the words 'in common gaming-houses' be inserted after the words 'rain gambling'

[*The President.*]

both in the title and preamble. There has been an extraordinary amount of misapprehension about the scope and object of this Bill. It has been said that we are going to put down rain-gambling altogether, but the Hon'ble Member in charge of the Bill distinctly said in his opening speech that we are not entitled to interfere with rain-gambling except so far as it is carried on in a common gaming-house. It is open to all the Marwaris in the place to remain in their own courtyards and have as many of their European friends as they please, and to sit there with all the appurtenances for gambling and bet away till midnight if they like, provided it is not a common gaming-house that is kept for the profit or gain of the persons owning or keeping the house. We do not object to this, we do not interfere with private gambling in any shape or form, nor is it intended that we should do so. It is a great mistake to suppose that the Gambling Acts are Acts passed for the purpose of enforcing morality. It is true that indirectly they are in favour of morality because they put down vice by discouraging people whose profession it is to encourage gambling. But it should be clearly understood that this Bill does not attempt to regulate people's conduct by any moral considerations whatever. It aims simply and solely at a matter of Police, and there is one strong reason why there should be prompt action because of the extent to which the evil has recently been growing. Less than a year ago there was only one such house which was almost entirely frequented by Marwaris, but now there were three of these establishments, to which great additions have been made, and if this Bill is not passed, their numbers will no doubt multiply. It pays the owners or keepers of these houses not only to employ female touts to enter zananas and induce *purdah-nishin* ladies to bet, but it pays them also to keep men to go to merchants and bankers' offices and induce the assistants there to gamble upon the rainfall. As I happen to know the practice is extending to great dimensions and the profits are enormous. What this Bill will do is to put a stop to the profession of rain-gambling as it is carried on for the purposes of lucre, and to make such practices illegal is the object of this Bill. I move that the words 'in common gaming-houses' be inserted after the words 'rain gambling' in the title and preamble to the Bill, so that there shall be no misconception as to the object and scope of this Bill."

The Motion was put and agreed to.

[*Mr. Bolton; Mr. Wallis; the President; Mr. Risley.*]

The Hon'ble MR. BOLTON moved that the Bill, as settled in Council, be passed.

The Hon'ble MR. WALLIS said:—"Hon'ble Members will have concluded from the note of dissent which I appended to the Report of the Select Committee that I intended to vote against the Bill in its present form. My chief reason for objecting to the Bill is the form in which it has been brought forward. I have on no occasion stated that I was opposed to the ends which are sought to be gained by the Bill, but to the way in which the legislation was being carried out. In Bombay they worked differently. When they found that rain-gambling was growing so as to become a public nuisance, they considered it desirable to consolidate and amend the law for the prevention of gambling in the Presidency of Bombay, and Bombay Act IV of 1887 was amended by Bombay Act I of 1890, as follows:—"Section 2.—In this Act the word 'gaming,' whenever it occurs, shall include wagering. In this Act the expression 'instruments of gaming' includes any article used as a subject or means of gaming." ~~This I~~ submit, Sir, would have been the correct way to have proceeded, instead of introducing an incomplete Act, referring to, and making certain amendments in, other Acts in order to gain the desired end. As, therefore, I have heard nothing to lead me to change my mind, I must record my vote against the Bill."

The Hon'ble THE PRESIDENT said:—"We adopted the form which this Bill has taken for the very simple reason that we considered the term 'wagering' to be open to many of the objections which in ignorance have been taken to this Bill. Wagering is an indefinite term, and it was thought wiser and better, when we want to suppress common gaming-houses where rain-gambling is carried on, to say so."

The Motion was put and agreed to.

BENGAL FINANCIAL STATEMENT FOR 1897-98.

The Hon'ble MR. RISLEY moved for the discussion of the Bengal Financial Statement for 1897-98.

[*Babu Surendranath Banerjee.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I desire to make a few observations with reference to the Budget which the Members of this Council have had only one week's time to study. I regret I am not in a position to renew my felicitations to the Hon'ble Member in charge of the Financial Department in regard to this Budget. It is a difficult matter to frame a good and hopeful Budget at a time of pestilence and famine, and unfortunately the position has been somewhat complicated by the adjustments in connection with the recent Provincial Contract. The last Provincial Contract came to an end on the 31st March, 1896, and the new contract began to run from the 1st April, 1897. Under the terms of this contract, which is referred to in the Financial Statement, the Government of Bengal loses yearly a revenue to the extent of 12½ lakhs, the details of which are given in the lucid statement of the Financial Member. A most improveable source of revenue has been taken away from us. Under the last contract, the Bengal Government used to keep one-half of the net earnings of the Eastern Bengal Railway. Our share was 44 lakhs, and the whole of this revenue has been taken away from us, and we get instead one quarter of the Excise revenues. We lose 44 lakhs, we get in return 33 lakhs; therefore we lose about 11 lakhs. But we lose something more. As we get the income derived from a quarter of the Excise revenue, we have to meet the charges incidental to the administration of that quarter share, which amount to Rs. 1,78,000; therefore we lose to the extent of about 12½ lakhs a year, and prospectively more. This is a result which is doubly disastrous to the province at a time like this. We stand face to face with the terrible prospect of a great plague. I hope it may never break out here, but should it break out, I am afraid the resources of the municipalities will not suffice to cope with that calamity. If you look at the finances of the Calcutta Municipality you will find that its revenues come up to about 44 or 45 lakhs a year; the revenues of all the other municipalities in Bengal amount to 41 lakhs a year. The revenues of all the municipalities put together thus come up to about 100 lakhs, and they are burdened with multifarious charges, and it will be impossible to set free portions of the municipal reserve to meet a great plague. Therefore a subsidy will have to be made from the revenues of the Provincial Government, and that at a time when the resources of that Government are strained to the utmost.

"With regard to the Famine, I congratulate the Government upon the earnest and sympathetic efforts made to cope with it. The estimated expenses in Bengal under the head of famine are large, a little more than 100 lakhs, of which, roughly speaking, 70 lakhs are to be provided by the Imperial Government, because it has provided itself with a Famine Insurance Fund. Of the rest, 22 lakhs are to be provided by the Provincial Government, 8 lakhs by local funds, and to this must be added 25 lakhs provided by the Famine Relief Committee which are to be devoted to lessening the sufferings of those who do not come within the operations of the Government relief works.

"These are temporary visitations. But we have permanent wants which have to be met, and the most pressing of these is undoubtedly the supply of water for the rural tracts in Bengal. The Government have introduced into this Council a Bill to provide Bengal with an adequate supply of water; it has been referred to a Select Committee, but nothing has been done since. It is a measure of permissive taxation; but in order that it should prove a success, it must be supported by a powerful body of public sentiment. We have before us an instance of the failure of permissive legislation. The Drainage Bill was passed through this Council amid the unanimous protest of the non-official members. It has proved a dead letter, because public sentiment is opposed to it, and I have no hesitation in saying that public sentiment would be opposed to any scheme of permissive taxation for the supply of water, unless the people are convinced that the Imperial Government has done adequate justice to the Provincial revenues.

"It cannot be said that we have been completely taken by surprise by the new Provincial Contract. The history of the Provincial Contract in Bengal is one long story of public disappointment. It will be in the recollection of Hon'ble Members of this Council who have taken an interest in the matter that under the Provincial Contract of 1877 three most improveable sources of revenue were made over to us subject to the payment of certain specified sums, viz., Stamps, Excise, and Registration. These revenues increased from 1877 to 1882 from 185 lakhs to 213 lakhs. They improved to the extent of some thing like 48 lakhs. But these favourable conditions were associated with certain burdens. The province was made responsible for certain public works committed to its care by the Government of India. The Public Works Cess

[*Babu Surendranath Banerjee.*]

was now levied to meet the charges incidental to this arrangement. The Public Works Cess now produces about 41 lakhs a year. When the contract of 1877 expired and a fresh contract was entered into in 1882, the Public Works Cess was continued, but a change for the worse was made in the terms of the contract. The three sources of revenue to which I have referred were taken away to the extent of one-half share of their proceeds. Under the contract of 1877 the proceeds of these revenues were made over to us subject to the payment of certain definite sums to the Government of India. Under the contract of 1882 a half share of these revenues was only given to the Provincial Government, the Government of India appropriating the other half. And the result of this was the contraction of administrative resources to an extent such as crippled administrative reform. Sir Rivers Thompson found himself in this situation. Schemes of improvement which he had planned had to be abandoned, one of these upon which he had set his mind being the extension of education. He wanted to give effect to the recommendations of the Education Commission, and he told the Government of India that it was his intention to devote to education an additional sum of Rs. 1,50,000 a year. But, in consequence of the narrowness of his resources, he was prevented from carrying out his policy in this respect. Then he appointed a Salaries Commission. The Resolution appointing that Commission distinctly laid down the proposition that the salaries of the ministerial servants of the Government were inadequate, and doubly inadequate, having regard to the rise on the prices of food-grains. That Commission consisted among others of the Hon'ble Mr. Primley as President and the Hon'ble Rai Durga Gati Banerjea—two distinguished members of this Council; and they recommended that the salaries of the ministerial servants of the Government should be increased by at least 75 per cent. I am quite sure that if, instead of the contract of 1882, we had the contract of 1877, the recommendations of the Salaries Commission would have been given effect to. I desire once again to make an appeal on behalf of the ministerial servants of the Government which I have so often made from my place in Council. I cordially acknowledge that concessions have been made involving an expenditure to the extent of more than Rs. 50,000 a year, but I do not think that this is sufficient. It is hardly fair that the highly-paid officers of the Government should be given compensation allowance in consequence

of a fall in the rate of exchange, but that these poor ministerial servants of the Government should be placed in positions of trust, exposed to temptations to abuse that trust and at the same time draw a miserable pay. It is not fair to them that they should be given salaries which are far below what they have a right to expect.

"Coming to the estimates in the Financial Statment, I find that the expenditure under the head of Courts of Justice has decreased by nearly Rs. 40,000. The Government—I will not say the Bengal Government—make a handsome profit out of what has been described as the sale of public justices and I think it is a matter of the highest importance that a portion of the proceeds should be devoted to the improvement and strengthening of the institution, which administer justice and which secure the gratitude and the loyalty of the people. My hon'ble friend Mr. Finucane has eloquently referred to the feeling of reverence which surrounds the Courts of this Province. I think it is a matter of the first importance that that feeling should be strengthened by strengthening the subordinate judiciary and adding to the number of Munsifs. The number of Munsifs is inadequate to cope with the work. We have been furnished with statistics by the Government and explanations have been given with regard to those statistics. They may satisfy my hon'ble friends who have given us those statistics, but I am bound to say that they do not satisfy the public. Organs of public opinion holding diametrically opposite views are at one in holding that the subordinate judiciary is undermanned. A friend of mine instituted a case before the Munsiff of Sealdah about the middle of February last; to-day is the 3rd of April, and the case has not come on yet for the first hearing, and he has no idea when it will come on. There are hundreds and thousands of people who have similar grievances. I earnestly hope something will be done to strengthen the subordinate judicial staff.

"I find that the Hon'ble Member has provided Rs. 40,000 for the residences of Munsifs. I should like to know how many buildings have been taken in hand, how many have been completed, and in what parts of the country. I find at page 6 that Rs. 20,000 has been provided for building a house for the District Superintendent of Police at Noakhali. Is it customary to provide buildings for District Superintendents of Police? If not, why was this special concession made.

[*Babu Surendranath Banerjee.*]

"I desire to point out that the grant for education has not been what it might have been. In 1896-97 the revised estimate showed that the Government were not able to spend the amount which was provided, and I find further that the estimates for 1897-98 provide less for expenditure on education than did the estimates for 1896-97; and I find the following explanation given at page 5:— 'The reduction in the revised estimate is owing to the grant for electric apparatus for the Civil Engineering College at Sibpur not having been fully utilised, and partly to savings from the grant for the Normal Training School.' May I enquire why the grant was not utilized, and why savings were made?

"I wish to refer to the circular issued by Your Honour's Government to various District Boards, enjoining upon them the propriety of devoting the whole of the proceeds of the Road Cess to the improvement of roads and communications. This is a circular which is likely to prove disastrous to the educational interests of this Province. Up to this time the proceeds of the Road Cess used to be devoted to the maintenance of roads and a portion to education; but as the Road Cess is now being exclusively spent on roads and communications, the educational grant is derived from pounds and ferries and certain Government grants which are made. I hold in my hand a Resolution of the Government on the report of the working of the District Boards in Bengal. I find from the figures in this report that for the last six or seven years the revenues from pounds and ferries have practically been inelastic and unexpansive so far as the Presidency Division is concerned, and further the grants which the Government has made to the District Boards for the purposes of education have been practically stationary. Therefore the result has been that in the Khulna district one or two schools have had to be abolished, and in Krishnagar they were saved from this situation by the timely resignation of a Sub-Inspector of Schools. I desire to refer to the reports of two Divisional Commissioners, Mr. Bourdillon and Mr. R. C. Dutt, both of whom have been Members of this Council. They are of opinion that the circular to which I have referred will prove highly injurious to the cause of education. Having regard to the sympathetic attitude of the Government in connection with the question of education, I hope and trust Your Honour will place the District Boards in such a position that they will find themselves able to foster and promote the cause of education in the rural tracts within their jurisdiction."

[*Mr. Bose.*]

The Hon'ble MR. A. M. BOSE said:—"I have one observation to add to what has fallen from my hon'ble friend with regard to the Provincial Contract. Not only is it that in the place of the larger and more improvable sources of revenue have been substituted smaller and less improveable amounts; but, Sir, I cannot congratulate Your Honour's Government upon the fact that its financial prosperity and well-being, its capacity to carry out the many and much-needed works of improvement are now more intimately connected than hitherto has been the case with the growth and expansion of the excise revenue of the Province. I recognise that we meet under the shadow of a great calamity, and it is only natural to assign in the financial arrangements of the year a foremost position to the question of famine relief. I recognise also that this is not a very proper moment to press upon the attention of the Government questions of policy which will involve a large addition to the expenditure. I shall not, therefore, go over the ground that my hon'ble friend who has just spoken went over both on this and upon a previous occasion, or take up certain other matters which might otherwise have well claimed our attention in this debate. I will only join him in one expression of regret that it has been found necessary to place the grant for education at a smaller figure this year than in the last, and that it should have been found necessary, I will not say to force, but to enjoin upon District Boards a policy which will interfere with the needs of education. I rise chiefly to press upon the attention of the Government a matter, not of financial policy, but I was almost going to say of financial honesty, in regard to which some questions were asked in the course of the last session, the subject, namely, of the unfair and excessive charges which are thrown upon District Boards on account of the collection of the road-cess; and that is almost the only matter which I intend to refer to. The history of the matter, as it has been given in the replies of the Financial Secretary, is shortly this. The question was fully considered in 1878-79, when a certain principle of division as regards collection charges was adopted by the Government. The District Boards, having regard to the fact that the collections for public works cess which went to Government were rather greater than those for road-cess, wanted that half the collection charges should be met by the Government, the same agency being employed for both. But the Board of Revenue pointed out that, in addition to the collecting agency, a portion of the time of a Deputy Collector and of the Collector had to be devoted to the work; and, having regard to this

fact, they recommended that one-third of the total collection charges should be borne by the Government and two-thirds by the District Boards. The Government was pleased to accept that principle, and accordingly a certain amount was then fixed as due from the Government to the District Boards for the collection of these provincial rates. In 1879, speaking in round numbers, the total amount of charges for collecting both the cesses was about Rs. 1,61,000, and instead of one-third, or about Rs. 54,000, the amount actually paid, Rs. 44,000, was short by Rs. 10,000. But the strangest part of the matter is that although since then the collection charges have been steadily increasing until in 1894-95—they were Rs. 2,87,186,—yet the contribution from the Government has all along stood at the same figure of Rs. 44,000, the net result being that, whereas the Government ought to have contributed something like Rs. 96,000, it was contributing only Rs. 44,500, or less by about Rs. 51,500 than the amount which ought to have been contributed by it to the funds of the District Boards. I wish in this connection to draw the attention of the Council referring to this matter—the passage in the statement (page 5, paragraph 21) where, it is said that, "in view of the diminished resources of the Government, it is uncertain whether the change contemplated will not have to be deferred, at any rate for the present," namely, to give to the District Boards really what is due to them. I would make a strong appeal to the Government not to defer the commencement of this equitable policy. I shall not now raise any question of restitution on account of overcharge in the past—probably at some more favourable moment the Government might be pleased to make over some of the payment which is really due to the District Boards; but at any rate, as regards the commencement of a fair adjustment of charges in accordance with the admitted principle laid down by the Government itself so far back as 1878, I ask that it may not be delayed. I am sure the Members of the Council will agree with me that the present state of things ought not to be allowed to continue for a single moment. The District Boards have large demands upon their resources for water-supply, sanitation, and various other demands are constantly springing up; and if the argument derived from the present financial difficulties of the Provincial Government be urged, I venture to say that the District Boards also are in the same position. The scarcity which has injuriously affected the revenues of the Government will also affect the income of the District Boards and throw extra burden on that income; therefore I hope that an additional

annual payment of about Rs. 50,000 to the District Boards, demanded a like by considerations of justice and generosity, will be made without delay. In the matter of agriculture, I beg to observe that last year reference was made in the budget to a certain allotment (Rs. 10,000) to promote the establishment of an agricultural class at Sibpur. I shall be glad now to learn what progress has been made in that direction and what is the present position of the matter. I trust we shall have a statement of a reassuring character, such as will enable the Council to see that the matter has not been slept over. The present scarcity brings into prominence the question of the establishment of agricultural classes, not only with the object of giving the people the benefit of an agricultural education, but also that they may be able by the raising of additional crops to tide over times of difficulty. I would also appeal to the Government to see what steps may be taken for the establishment of agricultural banks. I will read to the Council a passage from a letter which I have received from a gentleman occupying a high and responsible position in Chota Nagpur, earnestly advocating the establishment of such banks to save the ignorant and helpless people there from the grinding exactions of the village grain and money-lenders. (Passage read).

"It is not necessary for me to say anything with regard to the condition of the people of Chota Nagpur in the presence of the Hon'ble Mr. Grimley. I will only add that the state of things depicted in this letter is not confined to that division, but may be met with elsewhere also. I trust it will be possible for the Government to establish these banks, or at any rate to institute inquiries with the object of encouraging their establishment, so as to enable these unfortunate people to free themselves from the hands of rapacious and unscrupulous usurers. I hope the Government will earn their gratitude by helping to make lighter the burdens they have to bear and add a little brightness to their hard existence, because it is on the contentment and well-being of the people rests the surest foundation of the prosperity of the Government."

The Hon'ble MR. WALLIS said:—"Sir,—With your permission I would like to make a few remarks on the Financial Statement now under consideration. I am aware that the Members of this Council, when speaking on the Financial Statement, will have to use the greatest caution to avoid criticising the principles of the Provincial Contract on which we have just entered; but, Sir, we have been compelled to accept a revision of the Contract of 1892—97 on lines so disastrous

[*Mr. Wallis.*]

to the financial prospects of the province over which your Honour rules, that you will perhaps treat the Members of your Council leniently should they at any point overstep the bounds of reference, and tread on the forbidden ground of criticism. The year which the Financial Statement reviews opened with the brightest prospects, the closing balance being estimated at Rs. 34,40,000, the revised estimate raising it to Rs. 41,07,000. This vast improvement, we are told, is mainly due to an increase in the provincial share of the net earnings of the Eastern Bengal State Railway, an ever-increasing source of income, now unfortunately lost to the Bengal Government; but, Sir, the Financial Secretary is also to be congratulated on being able to show an increase of nearly Rs. 16,00,000 under various other headings, all of which assisted in making up the closing balance to the amount named, Rs. 41,07,000. There are, however, two heads of receipts under which I would like to make a few remarks, and they are the excess revenue obtained from Forests and Jails. These show a net improvement during 1896-97 over the actuals of 1895-96 of Rs. 1,62,000 for the former and Rs. 50,000 for the latter. We are told that the improvement under the head of Forests is due to contracts undertaken by the Department for the supply of railway sleepers to the Rai Bareilly-Benares Railway. This is, I fear, one of those cases in which the Government step in and compete with private enterprise to the undoubted loss of the latter, for it is hopeless for the private individual, however great his resources may be, to work on the same terms as the Government, who in this particular case stands very much in the position of the producer retailing his goods, instead of working through the wholesale buyer. It may be that the contract under reference is the only one in existence at the present time, but does that justify its existence? I think not; for what the private contractor has to fear is the extent to which such transactions might be carried on by the Government. The private contractor finds a new competitor has entered the field against him, an opponent possessed of unlimited capital, who can perfectly well carry on his business, regardless of the laws which must govern his action, for the private individual has to see that each particular venture he embarks on is worked to a profit. It has been shown that the existing contract with the Rai Bareilly-Benares Railway has proved a profitable speculation to Government. I respectfully submit that the timber should be sold to the contractor direct from the forests, and he, in turn, should retail it to the Railway. This is a question which might be enlarged upon to any extent, but it is not

my intention to take up the time of Hon'ble Members. I would only desire to mention that it is the principle to which I respectfully invite the attention of the Bengal Government. I now come to the question of the extra revenue obtained from jails. This is shown to be about Rs. 50,000, and is due to the supply of police clothing by the Jail Department. Here we have an excellent means for the employment of jail labour, and I would venture to suggest that the energies of those in control should be directed towards this legitimate means of increasing the revenue of jails, and in doing this I would desire to make a few remarks on the more general question of jail manufactures. In bringing this question before this Council, I am compelled to refer back to an exhaustive Resolution of the Government of India on this subject, dated 22nd September 1882. This Resolution clearly and fully restricts the production of jail manufactures to avoid their proving a hindrance to the growth of indigenous industries, or be brought into unfair competition with the products of private capital and of free labour. The history of the whole case is a very long one, and the Association to which I belong has considered it expedient on several occasions to address Government on the subject; but I trust Hon'ble Members will excuse my taking up a little of their time by making a passing reference to the question. Those who are interested in trade in India do not, for one moment, wish to deprecate the desirability of utilising convict labour, but they do respectfully protest against the production of the jails being offered retail to the public and at prices which cannot be touched by the private producer; but I will come to that point later on. I would now quote portions of the Resolution to which I have referred and which might be made to apply equally to the question of contracts for sleepers as to jail administration. [The speaker then read several quotations from the Government Resolution of the 22nd September, 1882.] This, Sir, is all that can be expected. That sales of jail produce to consumers among the outside public ought to be discouraged, the jails dealing direct, as a rule, only with traders, wholesale or retail; and I may venture to add that on no account should depôts be continued for the retail sale to private individuals of articles of jail manufactures, varying from a table serviette to a rocking chair, from a foot-rug to a drawing-room carpet, at rates which defy private competition. This question I feel the greatest confidence in leaving in Your Honour's hands.

"So much for my remarks on the past year's accounts; it now remains for me to refer to the estimated accounts for the year 1897-98. This period, but

for the demand on our resources for Famine Relief and the immediate loss which will accrue from the new Bengal Contract of 12½ lakhs, would have closed with a credit of about 44½ lakhs. This brings me to the question of Provincial Reserve Funds, and the undesirability of accumulating large balances. I have seen a Resolution of the Government of India, No. 318, of the 17th January, 1882, which refers to this question very pointedly. It reads as follows:—

'Moreover, as a consequence of the new principles laid down in the Resolution of 30th September last, and of the separate provision in the Imperial Budget of a permanent annual allotment of one crore and-a-half of rupees for Famine Relief and Insurance, the Local Governments, while always needing a moderate reserve over and above the mere 'working balance' of sufficient amount to meet scarcity and distress not indisputably amounting to severe famine, or other temporary exigencies, will no longer find it necessary to accumulate a great Provincial Reserve Fund, out of which the demands of severe famine could, in future, be largely met. His Excellency in Council is of opinion that, subject to the moderate reserve just referred to, the provincial resources can be best utilised by being invested to the full, from year to year, in works of a productive or protective character.'

"Towards the middle of last year your Honour recognised that the Provincial Funds had a credit balance of 21 lakhs, and possibly with above Resolution in view, you immediately took in hand one of the most noble schemes which you could have devised to inaugurate your rule over this Province, namely, the structural needs of the European General Hospital. The Resolution No. 314T.M., of the 13th June 1896, appointing a most influential Committee, with the Honble Mr. Risley as President and Mr. W. Banks Gwyther as Secretary, to consider and report on the whole question, was hailed with the utmost satisfaction by the general public, and it is a great misfortune that the financial horizon suddenly became overcast, the Province was threatened with famine, and the Government of India enjoined the observance of the strictest economy, and the Provincial balance of 21 lakhs had to be held in reserve to meet other expenditure of an urgent character.

"Thus, Sir, the funds which, I take it, you had intended to devote to the benevolent object named, have been diverted to other channels, but we learn that you will continue to press upon the Government of India the gradual reconstruction of the Presidency General Hospital on the lines suggested by the Committee, and also that other necessary medical reforms in Calcutta will

be undertaken as soon as money can be found. You also expressed a hope that the Provincial Contract, then under consideration, might possibly provide funds for the completion of a large portion of the work within the next five years. Your Honour has already commented on the disappointment which has been occasioned by the terms of the new contract; and as the conditions entail an immediate loss in the first year of some 12½ lakhs, it is to be feared that the Provincial Funds will not, for some time to come, be able to bear the strain which would be put upon them for the completion of the scheme. I am sure, Sir, every Member of this Council joins with you in the hope that the Government of India may, when more settled times come, see their way to restore to Bengal some portion of the contribution which we are now called upon to meet. We have an excellent example of this having been done in the past under a Resolution, No. 3353, of the 30th September 1881, of the Government of India, Department of Finance and Commerce, paragraph 9. This Resolution, after discussing at great length the responsibilities of Provincial Governments in times of severe famine, &c., decided that it was desirable to restore to Provincial Governments certain contributions amounting to some 67 lakhs which they had made to tho Imperial Government. This was actually done under a subsequent Resolution, No. 318, of 17th January 1882, so that we may hope with some degree of confidence that at no distant date the Supreme Government may take the question into consideration and decide on making the refund."

The Hon'ble MAHARAJA BAHADUR OF GIDHAUR said:—"I do not wish to detain the Council by any lengthy remarks. I wish with your Honour's permission to make certain observations in as few words as I possibly can. Before I proceed with my observations, I have to congratulate the Hon'ble Member the Financial Secretary to the Government for the very successful budget he has been able to produce in this year of exceptional difficulties. It is indeed a matter of great satisfaction to find that notwithstanding the heavy expenses required for the prevailing famine in Bihar, there has not been such curtailment of allotments on the education and other improvements as would retard the progress of the country. I observe with special satisfaction that an allotment of Rs. 12,000 has been made for the Bihar School of Engineering. The Government were pleased last year to announce its intention of opening an agricultural class at Sibpur. The people of Bihar would be especially thankful to the generous enlightened ruler of Bengal if he could see his way

to establish an agricultural school in Bihar next year, which, I hope, would be a year of prosperity. I wish the Government could see its way not to reduce the allotment for grants-in-aid to schools. This may work to the prejudice of primary schools and schools in general. I find that out of 27 lakhs and odd budgeted for education, Rs. 3,39,000 are for inspection and Rs. 66,000 for direction, *i.e.*, one-eighth of the entire amount to be spent on education is to be spent on inspection. The proportion seems to me a little too high. I am aware of the difficulties of making any savings here. But I cannot help wishing, that the grant-in-aid of Rs. 5,93,000 could be raised at least to the figure spent last year by making saving somewhere else. It is worthy of notice that the reduction of Rs. 30,000 made in the budget under education this year, as compared with the budget of last year, a reduction of Rs. 27,000 has been made only in allotments under grant-in-aid. I find that a sum of Rs. 20,000 has been allotted for the construction of a residence for the District Superintendent of Police at Noakhally. I am not aware whether the Government provides District Superintendents with residences in other districts. There must have been some special reason for making this allotment, but I cannot help observing that in my district a very good and comfortable bungalow may be made for Rs. 10,000, and I do not know why the same amount would not be sufficient at Noakhally. I also find a sum of Rs. 25,000 allotted for the construction of a parsonage. I don't find any other item of expenditure for ecclesiastical purposes in our provincial budget, and this has made me doubtful whether the item is properly there. The Subordinate Judicial Service has special reasons to be thankful to His Honour for the allotment of Rs. 40,000 for the residences of munsifs. The present Government is not one that is slow to remove a grievance when it is brought to its notice. By making the residence for munsifs, it would remove a long-standing grievance for a most deserving and hard-working class of officers and would earn their gratitude."

The Hon'ble MR. M. S. DAS said:—"During the discussions on the Budget last year, I suggested the importance and the necessity of appropriating a portion at least of the educational grant to schools where agriculture would be taught in a primary form. My suggestions had some support from His Honour the present Lieutenant-Governor, who remarked that he had seen the experiment [illegible] in the Central Provinces. I therefore expected that in the

present Budget some provision would be made for giving an agricultural training in primary schools, but I regret to say that I do not find any provision made for this purpose. No doubt this is a year in which the Financial Secretary must have found it very difficult to make allotments for educational purposes; in fact he ought to be congratulated for the successful manner in which he has adjusted the revenues of the Province, and provided for the monstrous calamity of famine without trenching upon the grant for education to such an extent as to be detrimental to the department. But I maintain that in a year of famine any outlay for the promotion of agriculture would not be out of place. Prevention is better than cure, and therefore by educating the people in the art of agricultural, though we shall not be able to avert famines by commanding rainfall in proper season, it will enable the people to know what crops they can grow in a season when the rainfall is scanty. This is very desirable because the peculiarity of agriculture in this country is that the people move about in the old groove and have the same crops from year to year irrespective of the vicissitudes of season. I do not wish to take up any further time; I shall therefore only express the hope that the Hon'ble the Financial Secretary will be able to find something out of the resources at his command for this most important item of expenditure."

The Hon'ble BABU GURU PROSHAD SEN said:—"In spite of the persuasive and eloquent speech of the Hon'ble Financial Secretary of the Government of Bengal to the contrary, I still maintain that the discussion on the budget in the Bengal Council is of the most academic character and perfectly useless for any practical purpose whatsoever, and I am confirmed in this opinion by what was said the other day in reply to a question of my hon'ble friend Babu Surendranath Banerjee. It was this, that 'under the orders of the Government of India, the Financial Statement of a Local Government cannot be presented to, or discussed by, the Local Legislative Council, until it has received the sanction of the Government of India.' Holding the opinion I do, I shall be very sorry indeed to criticise a budget for which the Bengal Government is not at all responsible, and the exceptional character of which, perhaps for the present, has been partly forced by circumstances, over which man has no control. But, Sir, on the present occasion, in connection with the Provincial Budget, we, the non-official members of this Council, have a duty to perform. It is to offer His Honour the Lieutenant-Governor our humble but

[*Babu Guru Proshad Sen.*]

heart-felt thanks and our tribute of admiration for the care he takes for the defence of the interests of our Provincial Revenues. If money, they say, is the sinews of war, it is no less true that it is the means alone by which administrative reforms are possible. The Government of Bengal, Sir, are entrusted with the care of the administration of the Government of this vast province in all its details, excepting its protection from outside and its communication inside and outside by Railways, Telegraphs and Post Offices, branches which are in the Imperial Budget called 'Commercial.' Therefore, Sir, in the treatment we receive in this matter, lie the progress and prosperity of the teeming millions of Bengal, comprising nearly a third of the population of this vast Indian Empire.

"Their contribution as taxes amount to more than a third of the principal Heads of General Revenues of India, if you were to give them credit for the revenue derived from opium, got out of poppy grown in their soil or more than a fourth, if no such credit were to be given.

"And the Provincial Revenue which my hon'ble friend shows on the Receipt side, and which every one will allow, he has husbanded to the best of his ability in the budget before us, comes up to only three crores and odd (*i.e.*) barely a fourth of what Bengal contributes in a year.

"Sir, our Stamp Revenue alone comes up to 174 lakhs. It keeps on developing by some lakhs even in this year of famine, and it would cover, with its receipts, our expenditure for Administration, for Maintaining Courts, Civil and Criminal, including the High Court, for Police, and for Jails. Thus—

Receipts—Stamps	...	... 174	lakhs.
Courts of law	...	... 8½	„
Jails	...	... 8½	„
Police	...	... 2	„
	Total	... 193	„
Expenditures—Administration		... 17½	lakhs.
Courts of law	...	... 89½	„
Jails	...	... 22	„
Police	...	... 61	„
	Total	... 190	„

"Our Excise Revenue, our Assessed Taxes, our Custom Revenues, our Provincial rates and the receipt on all our minor Heads of Revenue remain unaffected by the great calamity that has overspread the land.

"Our Land Revenue collections stand where they always stood uneffected by the vicissitudes of the season, and why, because we have here a Permanent Settlement.

"Again, Sir, of all our Railways the East Bengal State Railways paid best during the year, and why, because our Permanent Settlement renders our land system certain, and secures to our raiyats almost all the advantages of a profitable cultivation.

"But if we pay, we require our people to be educated, we require hundred and one administrative reforms to be introduced, and we want healthy checks introduced in the abnormal growths of some of our Revenue Heads, conspicuously the Excise and the Stamps, which I respectfully submit indicate growing drunkenness and litigiousness amongst my people.

"I shall not repeat what I said on these subjects last year. In 1883-84 when the outstill and distilleries contributed only 48 lakhs, it was declared in the Resolution appointing the Excise Commission that there was a serious increase in drinking, and Government in appointing that Commission declared that no *consideration of Revenue* can be allowed to outweigh the paramount duty of Government to prevent the spread of intemperance, so far as it may be possible to do so. The Excise Commission suggested some changes; these suggestions or at least some of them were adopted, and with their adoption the development of the Excise Revenue received a check.

"These checks have since been removed one by one, and the only recommendation now adhered to is the establishment of some distilleries, and some local option in the matter of selection of sites.

"Simultaneously with the withdrawal of the checks recommended by the Excise Commission, we have increased consumption and increased revenue.

"The outstill and distillery revenue stood at 59 lakhs last year. It is more than 60 lakhs this year.

"I was told last year that the increased Excise Revenue indicates prosperity of our people; that I should have congratulated the country and the Financial Secretary on this result. One has only to await to gather experience. This

is a year of famine, and the expansion of our Excise Revenue in spite of famine is all the same, and the pet theory of explaining away increased Excise Revenue, by referring it to prosperity as its cause, must now have to be given up. If it indicates anything, it indicates that the habit is being rooted in our people, and that what used to maintain our pauper population without any Poor laws in the land, now go to the liquor-shops. It is a matter which ought to engage the attention of those who are entrusted with the care of our people.

"Then, again, I find, in the latest Excise Report in hand, that a fresh experiment is now being tried at Gaya. The department, throwing aside the recommendation of the Excise Commission, with regard to the fixing of a minimum price for outstill liquor (4 to 6 pice a bottle), is now trying to introduce a system of maximum price for distillery liquor, and that so low as 7 Gorukpuri pice, equal to 4½ pice a bottle.

"I hope the Government will not allow this system of cheapening liquor to go on notwithstanding any report that the result was proving successful at Gaya, for the inevitable result will be to cheapen distillery liquor to a degree to which even the outstill liquors have not ever reached.

"Already in the district of Gaya country spirits brought in more money on the introduction of this rule, than has been the case for many years before this.

"I am afraid I was misunderstood last year with respect to what I said about the abnormal growth of our Stamp Revenue—what I meant to say, and I shall maintain even now, that, judging by the latest figures available, more than four-fifths of the litigation in our Courts are those in which our poor people (90 per cent. agricultural raiyats) are interested, and it were well if in the interest of these poor people Panchaiti (Conciliators') Courts were established, the panchaits to decide without charging Court-fees. A Bill to this effect could be introduced in Council at any moment, if permission was given.

"At any rate, there ought to be some system of refund of Court-fees introduced in cases where cases are decided *ex parte*, compromised or withdrawn, and the process-fees reduced in some cases.

"Another little matter, on which I like to say a word, is the subject of Assessed Taxes. Sir Charles Elliott said in his last Resolution on the Income-tax, 'on the question of popular feeling in regard to the Income-tax there was nothing new to be said. It is necessarily unpopular, but among the classes

which are enlightened enough to appreciate the financial position and prospects of the country, the tendency is to recognise it as an unpleasant but inevitable necessity. If the minimum income could be raised to Rs. 1,000, the unpopularity of the tax would be almost entirely removed.' His Honour the Lieutenant-Governor has in the present year's Resolution endorsed this view.

"The proceeds of the Income-tax up to minimum of Rs. 1,000 is not much. It is only 10 lakhs out of 49 lakhs to which it has grown, and the growth since its introduction has been about 10 lakhs. This 10 lakhs is paid by 87 thousand assessees out of the present total number of 114 thousand assessees.

"But I feel I am taking up the Council's time for nothing, when the Bengal Government begins the year with a deficit and all the surplus in hand is gone.

"Turning to the Budget figures I find that the receipts amount to 454 lakhs and the estimated expenditure to 485 lakhs for the present year, and if we get on to better times the next year, it will still leave us short of 9 lakhs to produce an equilibrium between our receipts and expenditure, and the only way out of our difficulty will be perhaps to make the utmost of the taxes, the curtailment of which I suggest. This is very disappointing, and I only make these suggestions in the hope that if better times come these subjects should not be lost sight of.

"I am glad, Sir, that, notwithstanding its difficulties, Government has not thought fit to curtail any of our current expenditures under any head: on the contrary, I find a small additional grant under the head Education in the estimate for 1897-98 over the revised estimate for the year 1896-97. The country ought to be thankful to His Honour for this, as formerly under the straitened circumstances of our finance, the expenditure on Education has always been the first to receive the shears. I hope, Sir, the Provincial revenues will come to a point when effect could be given to the recommendations of the Education Commission. It were false economy to curtail our useful expenditures.

"There are only one or two items on the expenditure side on which I like to say a few words.

"The first is head 'Irrigation,' Subject—'Interest on Debt.' The amount is 24 lakhs. This is the amount of charge I have seen for a good many years. It strikes me that with the interest of Government securities at 3 per cent. this amount ought now to be reduced to 18 lakhs.

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"I like to be informed if there be any special condition of this loan, under which the loan cannot be paid off or converted. It is specially necessary to do so, as the Irrigation Works have been a heavy drag on our Provincial revenues, and here in this matter we have been spending money, something over 23 lakhs from year to year, to insure ourselves against famine, without, I am sorry, the corresponding result. Take even a circle of 10 short years, when a famine comes, we would have spent on our irrigation canals 2 crores 30 lakhs before the famine year would be reached, and we would be spending two-thirds of the amount that is now estimated for the relief of whole India for the present year, and more than double of what we shall be required to spend for Bengal.

"Another matter for look-out, when this irrigation sits so heavily on the expenditure side of our budget, is whether the working and maintenance charges cannot be reduced. A good deal has been done in this respect by the Superintending Engineer and his divisional staff, for which they have justly merited His Honour's recognition, but I like to be informed whether, when the expense per mile varies from Major Works to Major Works, and in the different divisions of the same Major Works, whether the charges are not susceptible of further reduction. The collection charges of rates are nothing compared to the maintenance and working charges.

"And here permit me to say a passing word regarding the dire calamity we are at present passing through and which has evoked such sympathy throughout the world. India cannot be too grateful for the large sums of money that have been pouring in from England and all her dependencies for charitable relief to our poor people. That calamity has greatly affected a part of His Honour's territories. In that part of the territories under His Honour, distress and scarcity is almost chronic, and it behoves those who have any information to convey to lay it before Government. To me it appears that the classes of persons who come to be affected at every season of drought and distress in Bihar are the *landless* classes, and amongst these the class of Nonias, who were once prosperous as manufacturers of saltpetre, and the class of Jhollas, who were once prosperous weavers. Add to this the dependants on agricultural prospects, the class serving on wages in agricultural fields. I believe this number is about 3 to 4 millions.

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"I can roughly calculate the Wage Fund in Bihar in prosperous times. The whole, according to my calculation with which I need not trouble the Council, come up to 60 millions of rupees. The result is appalling, for if the whole of the Wages Fund were to be distributed, it would not be more than Rs. 20 a head. In prosperous times an able-bodied man gets for unskilled labour Rs. 3-8 to Rs. 4 a month, a boy able to work Re. 1-8, and a woman Rs. 2. This has been the case as long as the memory of man runneth, and it has not much improved since the time when the Ayeen Akbari was compiled, when the pay of an ordinary groom was 170 to 100 daums= Rs. 4-4 to Rs. 2-8, 40 daums making a rupee. That everyone does not get work even at this low rate is apparent from the fact that you get lots of Umedwars to serve you when you have anything to offer.

"This for prosperous times. You can then well conceive why, with the slightest vicissitudes of season, you have to take the relief of these men in hand. Doubtless it is the great populousness of Bihar that accounts for a great deal of this and some of the social habits of the people with which any Government is powerless to combat. Emigration to other and less congested parts of India would go some way to relieve the congestion, but it appears to me that the best way to insure against famine is to help and encourage the growth of manufactures in this country and to rehabilitate our once prosperous manufacturers on wage funds in their own line.

"I have submitted how we spend 23 lakhs from year to year from our Provincial revenues, to keep up our irrigation works, to insure ourselves against famine. The Bengal Government had to spend a large sum of money in the districts of Muzaffarpur and Darbhanga during the distress season 1892-93, without (I like to be corrected if I am wrong) getting anything from the Famine Insurance Fund, and we have to spend 41 lakhs for 1896-97 and 1897-98 out of the Provincial Fund. We are very grateful for the 70 lakhs we are promised for 1897-98 out of the Famine Insurance Fund; but if we have to provide even in part the famine relief expenditure out of our Provincial revenues, which are allotted for fixed and specific charges, I wonder how long the administrative machinery in Bengal can get on. But whatever views may be taken as to the liabilities of the Provincial revenues to meet relief charges, I submit local revenues raised for specific purposes ought not to be diverted to other purposes. But I am afraid I am trenching on forbidden grounds.

[*Babu Guru Proshad Sen.*]

"I find, Sir, we had to contribute 18½ lakhs last year from the Provincial Revenues for famine relief, and we are called on to contribute 22 lakhs this year for the same purpose. The local bodies contributed 4½ lakhs last year, and they are called on to contribute 8 lakhs and odds during the present year. The total amounts to something over 52 lakhs. The estimated cost of relief works in charge of Public Works Department alone is 39 lakhs, and relief works in charge of Civil Department is 21¾ lakhs. These are large sums, and if devised to excavate tanks, wells and remove silts from the beds of rivers and canals, ought to save large parts of Bengal, at least the districts affected, from water-famine in future. Early in November last year I suggested this in one of my questions, and the Hon'ble Mr. Finucane in reply in December said I understood that this is being done. The famine would leave some good behind, if, with the money now to be spent, every village in the districts affected would get its supply of drinkable water in future.

"With reference to the Local Funds I have yet to say a word. I hope, notwithstanding his difficulties, the Hon'ble Financial Secretary shall be able to make an equitable distribution of the charges of collections between the Road Cess and Public Works Cess, and the charge of re-valuations also. The amount on adjustment shall be found to be about 2 lakhs a year, and not 10 or 50 thousand as he estimates.

"Under head Stationery and Printing, the estimate of expenditure is Rs. 11,34,000 against Rs. 11,00,000 of the revised estimate for the year 1896-97. The charges are thus distributed:—Stationery Office at the Presidency, Rs. 1,54,000; Stationery purchased in the country, Rs. 70,000; Government Presses, Rs. 3,66,000; Printing at private presses, Rs. 1,000; Stationery supplied from Central Stores, Rs. 5,42,000; Refunds, Rs. 1,000. The receipt under head Stationery and Printing is Rs. 1,34,000 only. I believe Government printing offices now supply printed forms to District Boards and Municipalities at certain rates; private presses could do this cheaper, and, judging by this, I beg to ask whether it has ever been thought expedient to ask private presses to do the Government printing works, at least of forms, and whether they would not do it at cheaper rates than what it now costs Government.

"As for the stationery, the country supply is Rs. 70,000, and the stationery supplied from Central Stores is Rs. 5,42,000. I like to know what kind of things are supplied from the Central Stores, and whether these could not be

had in the country. If the Government of Bengal has a free hand in the matter, will my hon'ble friend arrange for getting all his stationery from the country instead of indenting for them from the Central Stores. This will stimulate private enterprises, and I am sure lead to considerable saving under this head.

"I am glad that provision has been made for larger payments under commission to Rural Sub-Registrars and under contingent charges owing to the opening of new offices and the general expansion of the department. This is but doing justice to a department which contributes 8 lakhs to our revenue, of which we share half, and I hope the opportunity shall be taken to introduce some sort of test in the employment of these Rural Sub-Registrars.

"I am sorry not to find my old friend, the Zamindari Dâk Cess, which forms a regular impost on land, contributing about 3 lakhs in the Provincial Revenues. I still hold that the reason for its imposition no longer exists, but if the impost is to exist, let at least the control of receipt and expenditure be brought under the direct supervision of Government.

"But what are the savings of a few lakhs here and there compared to our wants?—and they are grave and many. They are not the fancied grievance of grievance-mongers, but well established by commissions of official experts. We want money to give effect to the recommendations of the Education Commission, the Police Commission, the Salaries Commission; we want money to increase the number of Munsiffs, to better their prospects, and we want money for the purpose of Village Sanitation, and no one knows better than His Honour that we can not pay more, and all our reliance is on our getting justice in the matter of Provincial Revenues."

The Hon'ble RAI ESHAN CHUNDRA MITTRA BAHADUR said:—"After all that has been said I shall only make a few remarks. From the recent Provincial Contract our province has lost 12½ lakhs of rupees, and as the Government has to make provision for the saving of the lives of many thousands of people, it will perhaps be unreasonable to ask the Government to provide for expenditure which has not been provided for in the budget. I know from the budget that our treasury is empty, and knock, as we may, at the gate of the Treasury, the Financial Secretary will say 'you must wait for a year; this is a very bad year, and when we have a better year perhaps some relief may be given.' I appeal for that class of persons

[*Rai Eshan Chundra Mittra Bahadur.*]

for whom my hon'ble friend Babu Surendranath Banerjee has been appealing to-day and has been appealing for the last two or three years; I mean that half-famished class of men, the ministerial officers. From the year 1867 down to the present there have been enquiries and commissions, but nothing substantial has been done to increase their pay. It is not necessary that I should remind your Honour of the labors of the Salaries Commission, but I will call attention to the remarks which were made by the Hon'ble the Financial Secretary on the occasion of the discussion of the last year's Budget. He was pleased to say that the recommendations of the Salaries Commission were not reasonable, but that there was no doubt the cost of living of the ministerial officers of the civil, criminal and revenue courts had increased to the extent of from 13 to 16 per cent., and it was no doubt desirable that some provision should be made for increasing the salaries of these ministerial officers. There is a Process Fees Fund, and from a Financial circular it appears that over and above the actual cost of maintaining the establishment for the service of processes there is a saving of 4½ lakhs. Court-fees are levied to meet the cost of the administration of justice, and I respectfully submit that the proceeds of these fees should not be diverted from expenditure under the head of the administration of justice to any other head. On the last occasion the Financial Secretary sympathised with the condition of this class of officers, but he regretted to say that even if an increase of 12½ per cent. of their salaries was given, the expenditure would amount to 3 or 4 lakhs, and therefore he could not hold out any hope of its being done. But I would remind your Honour of the moral obligation of Government to pay the ministerial officers adequately. But nothing has been given to this very over-worked class of officers since 1867. And it comes to this, that the salaries of various classes of Judicial Officers, Subordinate Judges, Munsifs, and Deputy Magistrates have been increased, and no doubt for weighty considerations some European Officers of the Government have received exchange compensation, and even the menial servants of the Government have received something; but these unfortunate men have not received a pice since 1867. There is, moreover, a class of unpaid apprentices both in the Courts of Judges and of Munsifs; they work for five years in expectation of getting employment, but if they do not get employment within that period they are turned out. A great portion of the work is done by these apprentices, and they absolutely do not

get a farthing from the Government, and I need not say how they live. When a large sum is realised in the shape of court-fees, fees specially realised to meet the expenditure on account of the administration of justice, I say these men have a right to proper remuneration. I would not have risen to address the Council on this occasion on a point on which so much has been said, but for a case which has come to my personal knowledge. The other day a case was decided in Howrah, in which a poor woman sued her husband and brother to recover Rs. 800 or Rs. 900 on a mortgage bond. The defence was that the bond was a fabrication. The Munsif went through the case for several days successively, and on appeal the Subordinate Judge heard it for some days, and it was found that the real bond was taken out of Court and a false one was substituted in its place. Such things are sometimes heard of in the mufassal, though I admit they are rare, and the most important thing is that neither the Munsif nor the Subordinate Judge could find out who committed the fraud, and no sanction for prosecution could therefore be given. There are in that Court some apprentices and some half-starved amla. It is for the Council to consider who committed the fraud and whether or not in the name of justice such things should be stopped. In matters other than judicial, the back-bone of the mufassal Courts are the underpaid amla; they get but half salaries, and there are lots of temptations before them. I submit this is a matter which should not be left unconsidered, and that the Government should take some steps to prevent such things occurring. To put it from another point of view—is it dignfied on the part of a great Government of which your Honour is the responsible head, to overlook the poor condition of these officers? There is a very stringent circular of the Government against indebtedness by Government servants; the unfortunate people cannot borrow, and still they are required to act honestly and fairly. I submit that they are at least entitled to some consideration during this year. If they are given an addition to their pay of even two annas to the rupee, it will be a great boon to them, and it should be met out of savings from process fees. Then there is another point, namely, the question of water-famine. A large sum is to be spent upon people who are suffering from famine for food-grains. The Government ought also to take into consideration the question of water-famine. The people are suffering from want of water. I differ from my hon'ble friend Babu Surendranath Banerjee upon the question of permissive legislation. [The Hon'ble BABU SURENDRANATH BANERJEE said:—"I said that

the people are not likely to approve of it unless the Supreme Government on its part does what it should."] I say there is room for improvement under this head."

The Hon'ble MR. FINUCANE said:—"Sir, this seems to be a debate *de omnibus rebus et quibus dem alüs.* The Hon'ble Babu Guru Proshad Sen began by saying that it was of an academic character, but upon no supposition can it be said that the Hon'ble Member has tried by his speech to give it a practical bent. In my remarks, which will be brief, I shall only endeavour to answer the questions which have been put by him and by other Hon'ble Members so far as regards the matters with which I am myself concerned. The Hon'ble Babu Surendranath Banerjee referred in very appreciative terms to the way in which the famine relief administration has been carried on. But he made a mistake. He said the expenditure in Bengal is larger than in other Provinces. The expenditure in the coming year will be larger, but taking the present and the past year, it is not larger than in other Provinces. Questions have been asked about an agricultural class at the Sibpur Engineering College. The position in that respect is this. We have submitted a proposal to the Government of India; sanction has not been definitely received, but the matter has not been lost sight of, and Rs. 10,000 have been provided in the Budget for this purpose. A Conference was held in the course of the year in the office of the Board of Revenue, at which the Hon'ble Mr. Stevens presided, for the purpose of considering the question of improving the system of education in the country generally, so as to make it more practical than it now is, and recommendations have been made. As to the expenditure upon Education, the difference between the amount allotted this year and last year upon Education is very trifling—about Rs. 24,000. The Lieutenant-Governor had intended to provide for a much larger expenditure on primary education,—but on account of the famine we have only been able to keep it as it was last year. The Hon'ble Mr. Bose made some remarks upon the establishment of agricultural banks by Government in Chota Nagpur; that is a large question which has often been considered in different parts of India. The difficulties in the way are exceedingly great, and nothing can, I fear, be done in this direction. [The Hon'ble MR. GRIMLEY said:—"There is an old bank existing in Chota Nagpur, which was got up by the Natives."] But not a Government Bank. Then with regard to Forests. The question of the supply of sleepers for

Railways has formed the subject of some correspondence. The Chamber of Commerce objected to the Forest Department supplying sleepers for Government Railways. The question was referred to the Government of India, and that Government, agreeing with the Government of Bengal, ruled that the Forest Department is to be conducted in Bengal, as it is in other parts of India, on purely commercial principles, and no hope can be held out that the Government will alter that policy. Then the Hon'ble Maharaja of Gidhaur expressed the hope that agricultural schools will be established in Bihar and the Hon'ble Mr. Das referred to the same point as regards Cuttack. It is the desire of the Government to extend agricultural education and technical education as much as possible, but funds will not admit of more being done at present than is now being done. If the Hon'ble Maharaja will help to establish a school himself in Bihar, the Government will highly approve of his benevolence in this respect. A question has been asked about the expenditure of Rs. 25,000 for a residence for the Chaplain of St. John's Church. The Chaplain receives from the Government Rs. 170 a month for house rent, he asked that a Parsonage be built from the capitalised value of that allowance, and his request has been acceded to, but Government will lose nothing by this transaction. These are all the questions with which the departments under me are concerned."

The Hon'ble MR. BOLTON said :—" I rise only to answer a few of the questions asked in the course of the speeches which have been delivered. The Hon'ble Babu Surendranath Banerjee referred to the Subordinate Judicial Service, and, with reference to the provision of Rs. 45,000 for Munsifs' residences, enquired what number of residences would be constructed and in what places it was intended to provide them? It is proposed to build in the course of the year eight houses at an average cost of about Rs. 5,000, and they will be constructed chiefly in districts of Eastern Bengal.

"The Hon'ble Member also spoke of the necessity of increasing the staff of the Subordinate Judicial Service. A question on this subject was asked last year, when the then Chief Secretary, Mr. Cotton, gave an answer which still applies. He showed that the staff had been increased by thirty between 1890 and 1894. Since then there has not been so large an increase, but the Government is gradually adding to the number of Munsifs where necessity for doing so is shown, and additions will be made from time to time in future. The

[*Mr. Bolton.*]

Hon'ble Member also enquired why quarters are to be built for the District Superintendent of Police at Noakhali ? There are places in Bengal where it is difficult to find residences for all the officers, and the difficulty tends to increase from year to year. The Government has, therefore, considered it advisable to undertake in some of the worst of these stations the construction of residences for its officers. One of these stations is Noakhali, where many buildings have been demolished, through the disappearance of European residents. Not only there, but also at Darbhanga it has been found necessary to construct quarters for the District Superintendent of Police. This expenditure causes no loss to the Government, because, under the standing rules, officers are required to pay a certain amount of rent, calculated upon a percentage of their salaries, and this rent represents an adequate return upon the capital, amounting to about 4 per cent. The Hon'ble Mr. Wallis drew attention to the Resolution of the Government of India on Jail manufactures recorded in 1882, and quoted the principles laid down in that Resolution. The orders now in force were issued in 1886, and Jail manufactures are being conducted in accordance with them. The manufactures supply, first, the requirements of the Jails themselves, and, secondly, the wants of the other consuming departments of the Government. But in giving employment to all classes of convicts, it is inevitable that certain articles should be manufactured which are not wanted immediately or at all by the Jail or by other departments, and these are disposed of to the Public at the full market prices. These manufactures are very small, and cannot interfere in any appreciable degree with private trade. Another matter which I have to notice is the Hon'ble Babu Guru Proshad Sen's remarks regarding the reduction of the cost of litigation to poor suitors. I have had the advantage of perusing a draft Bill which the Hon'ble Member has prepared on this subject. There are many difficulties in the way of carrying out his plan, and it is for him to move in the matter at any future time if he wishes to do so. The Government is not prepared to take any action in the direction he suggests. The Hon'ble Member also expressed a hope that a test will be introduced for the admission of Rural Sub-Registrars into the Registration Department. There is in fact a test. Candidates are in the first instance nominated by District Officers, and they are subjected to examination. The test is sufficiently effective to secure a good class of officers for these appointments."

[*Mr. Risley.*]

The Hon'ble MR. RISLEY said :—"I shall endeavour to cover the ground over which several Hon'ble Members have gone as shortly as I can. I have to thank the Hon'ble the Maharaja of Gidhaur and other Hon'ble gentlemen for their kindly recognition of the labours of the Financial Department, and I would like in doing so to acknowledge the admirable work done in connection with the preparation of this Budget by the Registrar of the Financial Department of this Government, Babu Surendra Nath Mitter. He has been of the greatest possible service in every way, not only to myself, but to a series of Financial Secretaries, going back to the time when the present Lieutenant-Governor himself held that office.

"Now as to the budget itself. The first thing I have to say about it is that it is essentially an emergency budget. Famine has upset everything, and has involved us in very great expenditure. Last year when we took stock of our resources, we thought everything was going on well, and that we should be able to carry out many useful works, but since then we have lost over 40 lakhs of accumulated balance, and besides that we lose 13 lakhs of normal and recurrent revenue by reason of the readjustment of the Provincial Contract. This is a question of fact, and not a matter of opinion; and having this loss of revenue, the only thing we can do is to make the best of it. If you look at the budget in a general way, you will find that the ordinary heads remain very much the same. There are salaries to be paid and services to be kept up, and at no time is there any great opportunity of effecting large improvements from year to year; but there are three heads under which people look for an extension of benefits, and those three heads are—Education, Irrigation and Public Works. It, however, so happens that these expansive heads of expenditure had to be reduced by reason of famine. The figures in the budget do not represent the proposals of the Government. We had to reduce 2 lakhs under the head of Education, 3 lakhs under Irrigation and 10 lakhs under Public Works. Notwithstanding this, on finding ourselves left with nothing but a choice of evils, we have managed, as the Hon'ble Mr. Finucane has told you, to provide for some extension of education. We have not done all we desired to do, but at any rate we have managed not to cut down the existing scale of expenditure unduly. Under Irrigation, the next important head, the improvement and repair of the great irrigation works have been kept up, and there is reason to hope that the tendency of the Department is to extend the distribu-

taries over a far larger area than these works at present cover. During this year there will be completed an important work which was commenced last year. We shall spend upon it nearly four lakhs this year, and we hope to complete it. I allude to the canalisation of the Bhangore khal, a very important chain of communication between Calcutta, the eastern districts of Bengal and places on the Brahmaputra and Assam. Owing to some tidal complications, the channel is extremely liable to be silted up, and boats have to go round by the Sunderbuns. There will now be a regular canal with a lock at either end, and the boat traffic over it, when the work is completed, will be very greatly facilitated. I have shown in the Financial statement the chief items of expenditure on original civil works. Some of these have been already referred to and I shall mention others later on.

"I now turn to the remarks which have been made by Hon'ble Members, but their range is so wide that I shall not undertake to reply to all that has been said. First, my friend the Hon'ble Babu Surendranath Banerjee referred to the great strain the plague is putting upon municipal revenues. There is no doubt that is so, and that plague expenditure affects the municipal revenues here in Calcutta, as well as in Dacca. Calcutta needed a great deal of cleaning, and considerable progress has, I am assured, been made; but Dacca is in a most appalling condition of filth, and most likely if the plague came round in this direction, it would settle upon Dacca, and it is reasonable and right that that Municipality should be required to repair the effects of its own disgraceful administration. Dacca has to my knowledge neglected its sanitary requirements for the last five years, and it is only fair that they should be made to pay for that which they have neglected to do. If they are not able to find the money themselves, I shall certainly demur to the proposition that because they have not done what they ought to have done, the Government should now make them a grant. On the contrary, I think the want should be supplied by their being compelled to apply for an emergency loan under the provisions of the Act which has recently been passed. They should borrow in this way whatever may be necessary to make up for their past errors.

"Then with regard to the question of water-supply, the Hon'ble Member referred to the system of permissive taxation legalised under the provisions of the Drainage Bill. As to that, I wish to explain that it was not intended at

any time to force any scheme of drainage upon the people. The Bill was meant to provide legal machinery by which people who are dying with fever and want to get their district drained, should adply to the Government for a scheme and offer to be assessed for a term of years to meet the cost of carrying out the scheme. Practically, the same principle applies to the question of water-supply. The financial condition of the District Boards is such that it is out of the question for them to afford any large expenditure upon any general scheme of water-supply; their wants can only be met through some form of local permissive taxation. There is such a scheme now before the Government, and it would have been further proceeded with but for the advent of the famine. I am certain that something of the kind will have to be adopted in the interests of Local Funds, and I gather from the Hon'ble Sir James Westland's speech the other day that this will be one of the conditions on which the Government of India will be prepared to carry out a larger measure of financial decentralisation and make the term of the settlement longer.

"Then my Hon'ble friend compared the contracts of 1877 and 1882, but there was a slight misunderstanding on his part. Take the question of Excise. In 1876-77 the proceeds from Excise were estimated at 63 lakhs. The Government of India said,—'You got 63 lakhs last year; we will make over the Excise Revenue to you, and will put it at an increase of a lakh a year for the five years, so that you will get 68 lakhs in the last year of the contract.' *Primâ facie* that was not a good bargain for the Provincial Government. It happened, however, that it was a period of tremendous expansion in the Excise Revenue. The Provincial share of that revenue went up from 68 lakhs to 93 lakhs; and for that reason in 1882, when a different principle was adopted, the Government of India said,—'We will give you half of the increase in the Excise Revenue, and we will take the other half.' Therefore whereas in the settlement of 1877 the share of the Government of India being fixed and only liable to enhancement by one lakh a year, when that revenue increased by, say, six lakhs, the Provincial Government got five lakhs out of the six, and the Government of India took one; but, under the subsequent contract of 1882, the Government of India got three lakhs, and we got three. In order to understand which of these two systems is the more favourable to the Provincial Government, you will have to go into detailed calculations.

[*Mr. Risley.*]

"The question of the Salaries Commission I shall touch upon later on when I come to refer to what the Hon'ble Member for Hooghly said. My Hon'ble friend Babu Surendranath Banerjee then referred to a point of considerable difficulty. He said a part of the proceeds of the Road Cess had for some years been devoted to the furtherance of education, and that the result of the circular which was issued in March last, to the effect that District Boards must spend upon roads and communications an amount at least equal to the proceeds of Road Cess, was that the cause of education suffered. The circular to which the Hon'ble Member referred was an executive order. Under the law the proceeds of the Road Cess may be spent on any purpose for which the District Board can spend their funds, but it was considered desirable as a matter of policy, not as a question of right or law, that they should spend upon roads and communications an amount equivalent to the proceeds of the Road Cess. No doubt education was likely to suffer by such an order, and also from the fact that the income from pounds and ferries had fallen off. The reason for the income from pounds falling off is this, that within the last five years there has been a disposition to look more closely into the system of farming pounds, and it has been felt that this system, which has been extremely lucrative, does not come within the four corners of the Cattle Trespass Act. This Government has always accepted the farming principle, because it is so successful; but when we began to tie up the farming of pounds by rules, and inspection became more careful, such high bids were not received as before.

"I now come to the remarks made by the Hon'ble Mr. Bose upon the charge made upon District Funds for the collection of the Public Works Cess. Two cesses are collected together by the same establishment, and the question arises, in what proportion are you going to allot the charges? This point was gone into carefully by the Board of Revenue in 1879, and what Mr. Dampier then said was that it is desirable to avoid even the appearance of treating Local Funds with any sort of harshness. I have no doubt that the proportion of one-third and two-thirds is a fair proportion, and nobody would come to any other conclusion. The Hon'ble Member is mistaken in saying that the one-third was incorrectly calculated. The amount which he mentioned is only the sum paid in Board districts, and does not include the sum paid in Cess Committee districts. The actual third comes to Rs. 46,800—Rs. 44,500 from the former

districts and Rs. 2,300 from the latter. Here, as a matter of convenience, the sum was fixed at the amount that happened to stand in that year, simply as a matter of account, in order to avoid calculating every year what the one-third really is. When it was brought to notice that that sum worked out now to the disadvantage of District Boards, we recognised as reasonable the contention that it should stand at about Rs. 90,000, and we provided for this as part of the standard scale of expenditure for the Province. The provision has been disallowed, and we are now obliged to meet this demand from Provincial Revenues. I cannot give any undertaking as to the time when we shall be in a position to re-adjust the charge.

"The Hon'ble Mr. Wallis spoke about the General Hospital. I am sure he must know that I am as anxious as he can be to get the work carried out as soon as possible. Last year we took up a piece of land on the side of the hospital which was required to complete the Committee's scheme. This year we have made provision for one lakh, and hope to be able to spend 1½ lakhs on the subsidiary buildings which are a part of the Committee's scheme. These will fit into the existing blocks and will tend to greater comfort and convenience in the hospital. Another Committee is now about to be appointed for the purpose of examining and reporting on the working arrangements of the hospital, the hours of attendance of doctors and nurses, the cooking arrangements, the supply of stores and the whole question of the administration of the hospital; and a set of rules will be drawn up dealing with these matters. I am glad to say that Mr. Arthur the President of the Chamber of Commerce, and Mrs. Ashton, the Honorary Secretary of the Canning Home, have kindly consented to serve on the Committee.

"I shall now proceed to consider the remarks made by the Hon'ble Babu Guru Proshad Sen, and in doing so I may mention that I found great difficulty in following what he said. Under the head of Stamp Revenue, the Hon'ble Member plunged into a scheme of fancy finance, and constructed an ideal budget on a basis which is entirely unintelligible. Under the head of Excise he repeated what he said last year, with only one addition. I am unable to conceive a less appropriate occasion than the present for criticising the Excise Revenue and complaining that we get more than we ought to get just at the very time when the Government of India have increased the proportion of Excise Revenue from one-fourth to one-half, in order to make some compensa-

tion to the Province for the loss of a great source of expansive revenue. I have no hesitation in saying that the Hon'ble Member's attitude as regards Stamps and Excise is something very much like disloyalty to the Province. He has taken up the rôle of a financial Jonah, and I can imagine other members feeling that it is high time for the whale to appear on the scene. I cannot repeat here all that I said last year on the subject of the Excise Revenue. There is one point only about the minimum and maximum price of certain drinks to which I shall refer. The Excise Commission had an idea that for outstill liquor you could fix a minimum price, and that it would do good in two ways: that it would counteract the competition for cheapening liquor, and would lead to the manufacture of more wholesome liquor: but I may add that subsequent experience showed that the Excise Commission were totally mistaken. For none of those consequences followed, and the result was that the proposal as to a minimum price was rightly abandoned. Now as to the question of a maximum price, I may explain that in the district of Gaya a condition is inserted in the licenses of distillery retail shops, that khasia or weak liquor, which has the largest sale in the district, should be sold at not more than 7 Gorokhpuri pice ($1\frac{1}{4}$ annas) a bottle. The measure was reported by Mr. Macpherson, the late Collector, to have worked well on the ground that it reduced smuggling by equalizing the retail prices of distillery and outstill liquor, improved the distillery revenue, and placed distillery liquor within the reach of the majority of the drinking population. Mr. Savage, the present Collector, while of opinion that it was the introduction of new vendors and competition among them, rather than the system of maximum prices, that brought about a reduction of prices and increased sales, still suggests that the system should be retained to serve as a useful weapon in future cases of combination among vendors. Mr. Gupta, the Excise Commissioner, is also in favour of fixing a maximum, but the Board discourage it as an interference with free trade and in itself difficult to enforce. Finally it was decided that the whole question should be discussed at length by the Board of Revenue, whose report has not yet been received.

"Both the Hon'ble Babu Guru Proshad Sen and Rai Eshan Chundra Mittra, Bahadur remarked upon the question of process-fees. I believe there are no charges more readily paid than charges connected with litigation. Litigation in this country occupies quite an exceptional position. It takes the place of

Monte Carlo, the Stock Exchange, and the race course all combined, and I would object to any attempt to surrender one pice of the proceeds of process-fees and court-fees.

"Under the head of Income-tax, no doubt, Sir Charles Elliott suggested that the minimum assessable income should be raised, but this was merely a pious opinion, and any proposal of that kind would require the consent of the Government of India. It raises a large question of Imperial Finance, which would be most carefully considered and most jealously guarded.

"The next point which was referred to is Irrigation. My hon'ble friend Babu Guru Proshad Sen objects to the charge of Rs. 24,65,000 for interest on irrigation works. That is a charge on the Provincial Revenues, and it is quite legitimate that the interest upon the capital expended for the construction of canals for irrigation should be borne out of these revenues.

"Incidentally, in connection with a general dissertation on the condition of the people, my hon'ble friend Babu Guru Proshad Sen wandered into a commentary on the condition of the Nunias and Jolahas. Considering that the name of the latter is a typical word for a fool, and that vernacular literature is full of stories to their disadvantage, I doubt whether they can ever have been as prosperous as my friend makes out. However that may be, Manchester cloth has no doubt affected the condition of the Jolaha as Liverpool salt has that of the Nunia. But if you compare the loss to these classes with the enormous gain to the general body of the population, no one will hesitate to say where the balance of advantage lies.

"There is a small point about the profits from printing. Both this Government and other Governments have introduced a number of forms which are a weariness to most people who come into contact with them. But they are a necessity, and you should print them as cheaply as possible. Some years ago a Committee was formed to enquire into this question, and we started an establishment for printing these forms at the Presidency Jail Press. That scheme saved a lakh of rupees in the first year, and has gone on flourishing ever since. I am certain no private press would do the work as cheaply, and I hold that it is quite legitimate that this work should be done in the jail.

"As to the supply of stationery, it is well known to everybody who looks at the reports of the Stationery Department that an enormous amount of

[*Mr. Risley.*]

country-made stationery is used. Within the last ten years, certainly the last five years, the effort has been everywhere to substitute country stationery for the stationery formerly procured from England, and at the present moment there is not an item of the most insignificant description which can possibly be obtained in this country that is imported from England.

"Lastly, as to the salaries of ministerial officers. I need hardly add anything to what I said on this subject last year. It is a class for whom it is impossible not to have a great deal of sympathy, and in considering our contract we included in our standard scale of expenditure a sufficient sum to enable the salaries of the ministerial officers to be raised to the extent I stated last year, but the Government of India were unable to admit the charge. The Hon'ble Rai Eshan Chundra Mittra, Bahadur said a good deal about unpaid apprentices and told us a pathetic story about the loss of a document. Well, I believe that if you raise the pay of the *amlah* and increase their number, the custom of taking apprentices is so ingrained in this country that they will only have apprentices in larger numbers. I do not think you can get rid of unpaid apprentices; and it is not my experience of Bengal that the practice of stealing inconvenient documents is wholly confined to the poorer classes."

The Council adjourned *sine die.*

CALCUTTA;
The 20th May, 1897.

F. G. WIGLEY,
Offg. Assistant Secretary to the Govt. of Bengal,
Legislative Department.

Reg. No 117G—300--22-5 97.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met at the Council Chamber on Saturday, the 24th July, 1897.

Present:

The Hon'ble C. C. STEVENS, C.S.I., Offg. Lieutenant-Governor of Bengal, *presiding.*

The Hon'ble SIR CHARLES PAUL, K.C.I.E., *Advocate-General.*

The Hon'ble M. FINUCANE.

The Hon'ble C. W. BOLTON, C.S.I.

The Hon'ble W. H. GRIMLEY.

The Hon'ble J. G. H. GLASS, C.I.E.

The Hon'ble RAI DURGA GATI BANERJEA BAHADUR, C.I.E.

The Hon'ble J. PRATT.

The Hon'ble G. TOYNBEE.

The Hon'ble GURU PROSHAD SEN.

The Hon'ble A. H. WALLIS.

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH.

The Hon'ble M. C. TURNER.

The Hon'ble NORENDRA NATH SEN.

The Hon'ble SALIGRAM SINGH.

The Hon'ble KALI CHARAN BANERJEE.

NEW MEMBERS.

The Hon'ble Messrs. Toynbee and Turner, and the Hon'ble Babus Norendra Nath Sen, Saligram Singh and Kali Charan Banerjee, took their seats in Council.

STATEMENT OF THE COURSE OF BUSINESS.

The Hon'ble THE PRESIDENT said:—"Gentlemen—I have to thank you for your presence here this morning. Since the Council last met, there have been changes in its composition, and more are imminent. We have lost the

[*The President.*]

services of Mr. A. M. Bose, who represented the Calcutta University, and Babu Eshan Chandra Mittra, representing the Municipalities of the Burdwan Division; while on Monday next, Babu Guru Proshad Sen, representing the District Boards of the Dacca Division, will vacate his seat. To each and all of these gentlemen I offer, on behalf of the Province which they have served, the acknowledgment of Government for the valuable assistance which they have given during their terms of office. The Hon'ble Babu Surendranath Banerjee left us only to return speedily, and I may take this opportunity of saying that the Hon'ble the Maharaja of Darbhanga has been so good as to place his valuable services once more at the disposal of the Province. My gratitude to these gentlemen, therefore, partakes of the nature of a lively sense of favours to come. We have to welcome new colleagues in the place of those who are now leaving us. I hope they will permit me to say that their past histories and reputation afford us a guarantee that they will prove themselves most useful Members of this Council. They will find that the work which they have undertaken will make considerable demands on their time and attention. Their labours are not to be measured by the time spent in meetings in this Chamber. Attendance on Select Committees, and the perusal and examination of papers connected with projects of law, are not the less laborious because they are not conspicuous in the sight of the public.

"Your labours this Session will not, I think, be severe, though they will be of some importance. The Partition Bill has received further criticisms, and these will be laid before the Select Committee. The points are for the most part matters of detail, and are not likely to detain the Select Committee long. It is hoped that the Bill will be passed in the course of this Session. The Select Committee will also proceed with the Chota Nagpur Tenancy Bill; this Bill, as has been explained fully by the Hon'ble Member in charge, is of a local character, and is intended to meet local wants. You will probably be greatly guided by the opinions of those who are familiar with the local conditions. It is not improbable that we shall be able to pass this Bill also. I shall not ask you to consider at present the Bengal Tenancy Bill. Some criticisms on it have been received, and Government will be glad to receive any further expressions of opinion on its provisions, with which they may be favoured; so that on Sir Alexander Mackenzie's return, his Government may be in a position to consider it in the full light of public opinion."

[*Mr. Finucane; Mr. Grimley.*]

ESTATES PARTITION BILL.

The Hon'ble Mr. Finucane moved that the Hon'ble Sahibzada Mahomed Bakhtyar Shah be added to the Select Committee on the Bill to amend the law relating to the Partition of Estates, and that the Hon'ble Mr. Pratt and the Hon'ble Babu Saligram Singh be also added in place of Mr. Wilkins and Rai Eshan Chandra Mittra, Bahadur, respectively.

The Motion was put and agreed to.

CHOTA NAGPUR TENANCY BILL.

The Hon'ble Mr. Grimley moved that the Hon'ble Mr. Pratt, the Hon'ble Maharaja Bahadur of Gidhaur and the Hon'ble Babu Saligram Singh be added to the Select Committee on the Chota Nagpur Tenancy Bill in place of Mr. Wilkins, Mr. A. M. Bose and Rai Eshan Chandra Mittra, Bahadur, respectively.

The Motion was put and agreed to.

The Council adjourned to a date to be notified hereafter.

CALCUTTA;
The 3rd August 1897.

F. G. WIGLEY,
Offg. Asstt. Secy. to the Govt. of Bengal,
Legislative Department.

[The next meeting was held on the 7th August, 1897.]

Reg. No. 280G—300—7-8 97.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met at the Council Chamber on Saturday, the 7th August, 1897.

Present:

The Hon'ble C. C. STEVENS, C.S.I., Offg. Lieutenant-Governor of Bengal, *presiding.*

The Hon'ble SIR CHARLES PAUL, K.C.I.E., *Advocate-General.*

The Hon'ble M. FINUCANE.

The Hon'ble C. W. BOLTON, C.S.I.

The Hon'ble W. H. GRIMLEY.

The Hon'ble RAI DURGA GATI BANERJEA BAHADUR, C.I.E.

The Hon'ble J. PRATT.

The Hon'ble G. TOYNBEE.

The Hon'ble MAHARAJA BAHADUR SIR RAVANESHWAR PROSHAD SINGH, K.C.I.E., of Gidhaur.

The Hon'ble A. H. WALLIS.

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH.

The Hon'ble M. C. TURNER.

The Hon'ble NORENDRA NATH SEN.

The Hon'ble SALIGRAM SINGH.

The Hon'ble KALI CHARAN BANERJEE.

The Hon'ble SURENDRANATH BANERJEE.

NEW MEMBER.

The Hon'ble BABU SURENDRANATH BANERJEE took his seat in Council.

POLLUTION OF THE RIVER WATER.

The Hon'ble BABU SURENDRANATH BANERJEE asked:—

I have the honour to call attention to the reply given by the Hon'ble Mr. Risley in this Council on the 11th July, 1897, regarding the pollution of the

river Hooghly by the discharge into it of the sewage of mills on both banks of the river, and to enquire what progress has been made with a view to prevent the further pollution of the river?

Has the attention of the Government been called to the pollution of the river caused by the new mill which has been started at Tittaghar? Is it the case, as stated in one of the newspapers, that the waste jute and kerosine oil discharged into the river by this mill near Charnock pollute the river water to such an extent as to render it unfit for drink? If so, will the Goverment be pleased to take the necessary steps with a view to the prevention of the nuisance?

The Hon'ble MR. BOLTON replied:—

"In reply to the first part of the question asked by the Hon'ble Member, I have to say that in accordance with the answer given by the Hon'ble Mr. Risley in this Council on the 11th July, 1896, the general question of the pollution of the river Hooghly and the *khals* and small streams running into it, by the discharge of sewage, trade refuse and other noxious matter from the various mills and factories situated in the neighbourhood, was referred to the Sanitary Board for their opinion. The Board, while expressing their opinion that the papers submitted to them did not supply any grounds for differing from the conclusions arrived at by Government previously, as stated in Government Resolution No. 524M, dated the 8th February, 1895, suggested that the Sanitary Commissioner should be consulted, and a special medical officer deputed to make a thorough enquiry in the matter. The Sanitary Commissioner was then requested to depute for this purpose a Deputy Sanitary Commissioner with definite instructions for his guidance; but in consequence of the unavoidable transfer of the Deputy Sanitary Commissioner to plague duty, and the deficiency in the staff of medical officers, it has not been possible as yet to complete the enquiry. The matter has not, however, escaped attention, and is still under the consideration of the Sanitary Commissioner.

"The reply to the second part of the Hon'ble Member's question is, that the Government has no information as to the alleged pollution of the river from a new mill started at Tittaghar, but the Sanitary Commissioner will be asked to enquire into this matter in connection with the general question."

[*Babu Surendranath Banerjee; Mr. Bolton.*]

OMISSION OF LEGAL PRACTITIONERS FROM JURY LIST.

The Hon'ble BABU SURENDRANATH BANERJEE asked:—

Will the Government be pleased to state whether, as stated in the *Hitabadi* newspaper of the 2nd ultimo, a circular letter has been issued directing District Officers to strike out the names of all legal practitioners from the list of Jurors? Having regard to the fact that the success of the jury system in Bengal is largely dependent upon the association in the practical working of the system of men of intelligence and culture, will the Government be pleased to reconsider its orders in this respect?

The Hon'ble MR. BOLTON replied:—

"In reply to the Hon'ble Member's question I have to say that intructions were issued to the local officers to give effect to the order exempting legal practitioners from service as Jurors or Assessors. The Government has no intention of withdrawing the order."

CONDITION OF RAILWAY PLATFORMS.

The Hon'ble BABU SURENDRANATH BANERJEE asked:—

(*a*) I have the honour to call the attention of the Government to the reply given in this Council on the 3rd April last to a question asked by Rai Eshan Chandra Mittra Bahadur regarding the condition of the platforms at Sheoraphuli, Bhadeswar and Khana Junction. Is the Government aware that no action has been taken in the matter by the Railway authorities, and that the platforms are still in the condition in which they were before to the serious inconvenience of passengers, especially of Hindu ladies?

(*b*) Will the Government be pleased to state if it has received any communication from the Railway authorities which the Government was expecting at the time when it gave the reply? And, if so, will the Government lay it on the table?

[*Babu Surendranath Banerjee; Mr. Bolton.*]

(*c*) Will the Government take the necessary steps to the speedy removal of the grievance referred to in this question?

The Hon'ble MR. BOLTON replied:—

"The reply received from the Agent of the East Indian Railway to the communication addressed to him by this Government is laid on the table. It seems to the Lieutenant-Governor that the Agent has given good reasons for raising the platform only at the Seoraphuli Station."

No. 3968, dated Calcutta, the 13th April, 1897.

From—COLONEL R. GARDINER, R.E., Agent, East Indian Railway Company,
To—The Secretary to the Government of Bengal, Public Works (Railway) Dept.

I HAVE the honour to acknowledge your No. 604R of 5th instant, and to state that the question of raising the passenger platforms at Bhadreshwar, Sheoraphuli and Khana Junction is still under consideration, and I am unable as yet to give a definite reply.

2. The point raised is one with very wide bearings. Admit that it is a matter of sufficient public importance for Government to intervene and order high level platforms at these stations, and the same convenience will be demanded elsewhere.

3. The height of platforms at stations between Howrah and Khana Junction vary between one foot and three feet above rail level. The older stations have all comparatively high level platforms, varying between 2 feet 6 inches and 3 feet: where stations have been interpolated, low level platforms have as a rule been supplied. It is of course a convenience to have the floor of the carriage and the platform on the same level, but this is a convenience seldom given either in this Country or in Europe. On the Continent of Europe platforms are, as a rule, only a few inches above rail level. At Sheoraphuli the platforms actually vary between 1 foot 3 inches and 1 foot 6 inches; at Bhadreswar between 1 foot 1 inch and 1 foot 3 inches; at Khana Junction between 1 foot and 1 foot 5 inches above rail level. The Government of India latest standard dimensions lay down that low level platforms (that is at minor stations)

are, as a minimum, to be flush with rails; as a maximum 1 foot 2 inches above the same. High level platforms (at important stations) to be as a minimum 2 feet 6 inches above rail with a maximum of 2 feet 9 inches.

4. To raise all the passenger platforms between Howrah and Khana Junction to full height would probably involve an average expenditure on platform alone of some Rs. 2,000 per station, with further consequential expenditure in connection with buildings and approaches, that I am not at present prepared to estimate. It would certainly involve an outlay of close on half a lakh of rupees for what is seemingly rather a sentimental objection. The actual inconvenience amounts to little more than what every one has to encounter in stepping into an ordinary horse carriage or going up and down stairs in a house not conveniently situated entirely on ground level, and the inconvenience, whatever it amounts to, is only experienced on the comparatively rare occasions on which a railway journey is undertaken.

5. As stated in the opening paragraph of this letter, I am having further enquiries made on the subject; but with the large expenditure that is still necessary in connection with the line, I am not disposed to recommend embarking on the heavy expenditure that raising our platforms generally would involve without greater evidence of the requirement than we have yet been given. Very special cases might be given exceptional treatment, but it is essential that it should be made very plain that they are to be rare exceptions.

No. 5170, dated Calcutta, the 22nd April, 1897.

From—Colonel R. Gardiner, R.E., Agent, East Indian Railway Company,
To—The Secretary to the Government of Bengal, Public Works (Railway) Dept.

In continuation of this office No. 3968 of the 13th April, 1897, I have the honour to attach a copy of a statement showing the average daily passenger bookings at certain of the more important stations between Howrah and Khana Junction and the height of the passenger platforms thereat. From a consideration of these figures, I am of opinion that Seoraphuli has a claim to high level platforms, and I will recommend the same to the Board for sanction.

Neither Bhadreswar nor Khana Junction have at present a traffic that justifies any special action on their behalf.

STATION.	Average number of passengers booked daily.	HEIGHT OF PLATFORM ABOVE RAIL.	
		Up.	Down.
1	2	3	4
		FT. IN.	FT. IN.
Bally	776	3 0	1 9
Serampore	1,038	2 5	2 3
Sheoraphuli	1,087	1 6	1 3
Baidyabati	143	3 1	2 10
Bhadreswar	286	1 1	1 3
Chandernagore	563	2 7	1 11
Hooghly	928	2 7	2 3
Trisbigha	96	2 0	1 6
Magra	503	2 11	2 11
Pundooah	307	2 10	2 0
Boinchee	220	2 3	2 3
Burdwan	956	2 5	3 0
Khana Junction	286	1 5	1 0

ESTATES PARTITION BILL.

The Hon'ble MR. FINUCANE presented the Final Report of the Select Committee on the Bill to amend the law relating to the Partition of Estates.

The Hon'ble The PRESIDENT said:—"It appears to me that in the List of Business the items have been, unfortunately, put in the wrong order, as item 4 should stand as item 2. But before I call upon the Hon'ble Mr. Finucane to move that the Report of the Select Committee on this Bill be taken into consideration, I have to say that I think the third item as it stands on the List, which is a proposal made by the Hon'ble Babu Surendranath Banerjee, is not in order. My reason is, that Rule 39 of the Rules for the Conduct of Business of this Council provides a procedure of its own. That Rule runs as follows:—

'The Report shall be taken into consideration by the Council as soon as conveniently may be, but any Member may object to its being so taken into consideration when he has

not been furnished for a week with a copy of the Report; and such objection shall prevail, unless the President, in exercise of his discretion, allows the Report to be taken into consideration.'

"It seems to me that this being the procedure as given under that Rule, it is not open for any Member to bring a matter of this kind before the Council by way of a motion. I mention this now in order to give the Hon'ble Member an opportunity, which I think the Rules afford him, of making the objection immediately after I call upon the Hon'ble Mr. Finucane."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I bow to Your Honour's opinion."

The Hon'ble MR. FINUCANE also moved that the Report be taken into consideration, and that the clauses of the Bill be considered in the form recommended by the Select Committee. He said:—

"Sir, when this Bill was introduced in Council sixteen months ago, I endeavoured to explain its objects and reasons. I stated that it had been under discussion for more than five years, and that there was no desire on the part of Government to rush it through Council.

"The Bill then introduced was published in the Gazette and widely circulated for opinions among Government Officers and Public Associations. Numerous and valuable criticisms were received on it which were considered with great care by the Select Committee.

"That Committee made some important changes in the Bill as originally introduced and presented a preliminary report in January last with the Bill as modified by them.

"The Select Committee which contained Experts on the subject, both official and non-official, unanimously agreed to the provisions of the Bill as amended except on one point, namely, the amount of the proposed limit to the partibility of Government revenue.

"Their report and the Bill as amended have since been published and circulated for criticism.

"The opinions received have been considered by the Select Committee, with the result that some slight verbal modifications have been made in certain sections and that the limit of Rs. 100 proposed in the original Bill and of Rs. 20

proposed in the Bill as at first amended by the Select Committee has been still further reduced.

"The proposal of the Select Committee now is that partition of an estate shall not be allowed—

(*a*) if the annual amount of land revenue for which the separate estate of any of the proprietors would, after partition, be liable would not exceed Rs. 10, or

(*b*) if after separation of the applicant's interest the annual amount of the land revenue for which the separate estate of the remaining proprietor or proprietors would be liable, would not exceed Rs. 5.

"The Bill as now amended has received the unanimous approval of the Select Committee, and it is hoped will be also unanimously accepted by the Council.

"The Bill is one of details for Experts to settle, (with which details the Council generally will probably not care to be troubled) except on two points, namely, (1) the provisions of Chapter VI relating to a survey and a record of existing rents and assets, and (2) the provisions of section 11 relating to restrictions on partibility of revenue. Chapter VI as it now stands has been accepted by all the Officials and Associations consulted without a dissentient voice. The restriction now proposed on partibility of revenue is, it will, I think, be conceded, the lowest that is compatible with the principle of imposing any restriction at all which principle was affirmed when the Bill was referred to the Select Committee.

"In deference to the views of the Landholders' Associations, the limit originally proposed has been very much reduced, and as that now suggested has been accepted by the representatives of the zamindari interests in the Select Committee, it is hoped the Council will have no difficulty in accepting it also. If this be so, the Bill in its present shape will, it is hoped, be unanimously approved.

"I observe that the Hon'ble Surendranath Banerjee and the Hon'ble Norendra Nath Sen think that the consideration of the clauses of the Bill should be postponed. If these Hon'ble Members have any specific amendments to propose or any improvements to suggest, I am willing to admit that time should be

given for the consideration and discussion of their amendments. But if Hon'ble Members have no amendments to propose, I would submit that it is not reasonable to ask this Council to assemble again merely because it is possible that at some future time amendments may suggest themselves to Hon'ble Members which they are not prepared to bring forward now.

"Many of the official and non-official Members may be put to much inconvenience by having to attend meetings of Council. Some of the former have important duties on tour in the Mufassal from which they may have to be recalled to attend meetings of Council, and some of the latter may have to come from long distances to Calcutta. If there is any real necessity for their doing so, the inconvenience they may be put is, as a matter of course, a minor consideration; but if there is not any necessity for putting them to inconvenience, and Hon'ble Members do not intend to propose any specific amendments in the Bill, I hope they will see their way to allowing it to be passed unanimously at the present meeting."

The Hon'ble Babu SURENDRANATH BANERJEE said:—"I wish I could accept the invitation of the Hon'ble Member in charge of the Bill, but as far as I am personally concerned, I must say that I have not had sufficient time to go through the Bill, and when I have stated the facts before the Council, I think the Council will be of opinion that I have not had sufficient opportunity for studying a Bill of this importance and magnitude. Rule 39 to which I refer, and with which I am concerned, distinctly contemplates that Hon'ble Members should have the opportunity of studying the Report of the Select Committee for at least a week. With the permission of Your Honour I will read the words of Rule 39, which run as follows:—

'The Report shall be taken into consideration by the Council as soon as conveniently may be, but any Member may object to its being so taken into consideration when he has not been furnished for a week with a copy of the Report, and such objection shall prevail, unless the President, in exercise of his discretion, allows the Report to be taken into consideration.'

"I only received a copy of this Report on Monday last; and I think my hon'ble friend to the left (Babu Kali Charan Banerjee) received his either on Sunday or Monday. At any rate, it was not put into my hands till Monday; and though other Members may have had time to consider this

Report, and were in a position to consider it carefully, I certainly have not had a week's time to study it before the meeting of the Council. I must say that, so far as my experience goes, it has been the practice, I was going to say the invariable practice, of this Council, for Reports of Select Committees to be laid upon the table for at least a week, except in the cases of non-contentious Bills. I do not think that it can be urged that this is a non-contentious Bill. This Bill has given rise to considerable discussion. The papers before us disclose the fact that even amongst the highest Officers of Government, there is considerable difference of opinion in regard to the provisions of this Bill. I do not see what necessity there is for departing from what is the invariable practice of the Council, namely, to give Hon'ble Members sufficient time for the consideration of the Report of the Select Committee, especially when we admit, in connexion with the Bill before us, that it affects a large and important section of the community and has given rise to considerable differences of opinion. I do not think that the Hon'ble Member in charge of the Bill will find himself in a position to get over this difficulty. I myself would have liked to have consulted the various District Boards and other gentlemen interested in this Bill. Many of them have no doubt given their opinions, but it is one thing for the Government to collect opinions, and quite a different thing for elected Members to approach their constituents for this purpose. I fail to see what possible harm can accrue to the Government, if the consideration of this Bill is postponed for a week or a fortnight. The Bill may be taken up at the end of the month or even later on. If you hurry this Bill through Council, I have not the smallest hesitation in saying that the action of the Government will be open to a great deal of misconstruction, and considerable hardship will be inflicted upon those classes whose good-will it is the interest of the Government to secure in connexion with this Bill. As elected Members in intimate touch with the people, it is our duty to raise this warning-note, and I hope the Government will see its way to allow of an adjournment of the matter in order that the Bill and the Report may be dealt with at a future meeting of the Council."

The Hon'ble The PRESIDENT said:—"I regret I am not able to accept the objection of the Hon'ble Member who has just spoken. The Bill, as the Council have heard from the Hon'ble Member in charge of it (Mr. Finucane), has been

before the Council for sixteen months, and I think I am not wrong when I say that during the whole of those sixteen months, with a small exception, the Hon'ble Member who objects has been a Member of this Council. It appears to me, therefore, that he has had ample opportunities of consulting his constituents, and the amendments made by the Select Committee are very few, and for the most part unimportant. They are such that a very small amount of consideration would be required to estimate their propriety, in addition to the consideration which the Hon'ble Member has no doubt given to the Bill during the course of those sixteen months. The one important change is a change in section 11 of the Bill with reference to the limit. In that instance the explanation given by the Hon'ble Member in charge of the Bill has given to the Council the history of the change, and he has explained that as it now stands, a large concession has been made to the landholding interest. This section was accepted by the representatives of that interest who sat in Select Committee, and in fact, it does not differ very much from a suggestion which was made by one of those representatives. For these reasons it does not appear to me to be necessary to adjourn this matter, as although the Hon'ble Member has not had these papers in his hands for a complete week, the deficiency is comparatively small. For these reasons, I decide that the Report of the Select Committee be taken into consideration."

The Hon'ble BABU NORENDRA NATH SEN said:—"After what has fallen from Your Honour, I think it is hopeless for me to expect any concession from Your Honour. However, in making this motion, let me not be misunderstood. It is far from my intention to be obstructive in the least. The importance of the Bill as affecting large classes, having anything to do with the joint ownership of land both as owners and tenants, cannot be exaggerated, and when I say this much, I think I say enough against the Bill being rushed through the Council. When over and above this, I frankly put forward my view as a new Member that I cannot conscientiously give a vote upon this Bill unless sufficient time is allowed me to study all the papers bearing on the subject, and when I appeal to Your Honour, who has been always so distinguished for fair-mindedness, to adjourn the debate upon this Bill, I am sure I do not appeal in vain, but, on the contrary, enlist Your Honour's sympathy on behalf of my motion. I contend that it is simply fair, at least to the new Members, that they should be given time enough to go through the enormous mass of papers,

containing the literature on the subject, especially when such literature happens to be of a debatable character. I have no desire at present to go into the merits of the Bill, but when the time comes, I may have a great deal to say, especially in connexion with section 11 of the present Bill, as the proposed limit of Rs. 10 is even much higher than that contained in the Assam Regulation I of 1896. I may also have much to say in connexion with some other sections of the Bill which I may call the procedure sections. It may be necessary, on the part of some of us, to send in timely notices of amendments after a careful consideration of the papers relating to the Bill. I think it is due to the large body of men who may be affected by the Bill, that the Bill, as amended by the Select Committee, together with their final report, should be published in the official Gazette before the Bill is passed into law, so that they may have an opportunity of making themselves acquainted with its provisions, and the recommendations of the Select Committee, as embodied in their final report, and of expressing their opinion on the Bill, if necessary. Besides, I fail to see what necessity there is for hurrying this Bill through the Council. The Bill as at present framed, will be more a source of administrative convenience than anything else. What I have said will, I trust, be sufficient to convince Your Honour of the reasonableness of my motion. I therefore move 'that the consideration of the Final Report of the Select Committee on this Bill be postponed for two weeks, and in the meantime, that the Bill, as amended, be published in the Gazette."

The Hon'ble MR. FINUCANE said:—"If there is a feeling in the Council that the consideration of the clauses of the Bill be put off, Government will have no objection, but if the general feeling of the Council is that we should now pass the Bill, then I shall make the motion which stands in my name that the Bill be passed into law."

The Hon'ble MR. BOLTON said:—"My own view is that the motion for an adjournment should be agreed to, but the condition should be made that the postponement shall not extend beyond this Session, and that the Bill must be discussed and passed this Session."

The Hon'ble MR. FINUCANE said:—"I have no objection to that, but I think the proposal for the re-publication of the Bill is perfectly useless.

[*Babu Norendra Nath Sen; Mr. Finucane; Mr. Bolton; the President; Mr. Grimley.*]

The Hon'ble BABU NORENDRA NATH SEN said:—"I withdraw that part of my motion if the postponement I ask for is granted."

The Hon'ble MR. FINUCANE said:—"I suppose that if Hon'ble Members have any amendments, they will give early notice of them."

The Hon'ble MR. BOLTON said:—"The proper course for the Hon'ble Members will be for both to send in their amendments. Many of these may be eliminated after personal consultation with the Hon'ble Member in charge of the Bill, and when we come to the actual debate, the number may be reduced to two or three, a great deal of time being thus saved to the Council."

The Hon'ble The PRESIDENT:—"Do I understand that the Hon'ble Member is prepared to abandon the second part of his motion, that is to say, that the Bill be re-published?"

The Hon'ble BABU NORENDRA NATH SEN said:—"Yes, I do."

The Hon'ble MR. GRIMLEY said:—"I should like to say that I am in favour of the proposal to postpone the consideration of the Bill. Although it has been considered by the Select Committee most carefully, section by section, still having regard to the importance of the questions at issue it is desirable that Hon'ble Members, who have not taken any part in previous discussions, should be allowed time to give the Bill the attention which it deserves. Their request is reasonable. I think we should lose nothing by allowing them a little time to consider the Bill. The postponement however should only be for a short period, say, for a week or fortnight."

The Hon'ble MR. FINUCANE said:—"It may be postponed to a date to be fixed later, but which will be before the termination of this Session."

The Hon'ble MR. BOLTON said:—"It may be postponed to the next meeting of the Council, without fixing any date to-day."

The Hon'ble The PRESIDENT said:—"The amendment of the Hon'ble Member now runs as follows:—'That the consideration of the Final Report of the Select Committee be postponed.' As it appears from the speech of the Hon'ble

[*The President: Babu Norendra Nath Sen.*]

Member that he has some substantial objection to raise to the Bill, I shall not oppose his proposition. At the same time, of course, I am unable to modify or withdraw any of the remarks which I have just made, but I hope that on the next meeting of the Council we shall be able to pass the Bill unanimously."

The Hon'ble BABU NORENDRA NATH SEN moved that the consideration of the Final Report of the Select Committee be postponed.

The Motion was put and agreed to.

The Council adjourned to a date to be notified hereafter.

CALCUTTA;
The 4th September, 1897.

F. G. WIGLEY,
Offg. Assistant Secretary to the Govt. of Bengal, Legislative Department.

Mog. No. 887G—8 0— 7-9 97.

Extract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met at the Council Chamber on Saturday, the 21st August, 1897.

Present:

The Hon'ble SIR CHARLES PAUL, K.C.I.E., Advocate-General, *presiding*.
The Hon'ble M. FINUCANE.
The Hon'ble C. W. BOLTON, C.S.I.
The Hon'ble W. H. GRIMLEY.
The Hon'ble J. PRATT.
The Hon'ble G. TOYNBEE.
The Hon'ble NAWAB SYUD AMEER HOSSEIN, C.I.E.
The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH.
The Hon'ble M. C. TURNER.
The Hon'ble NORENDRA NATH SEN.
The Hon'ble KALI CHARAN BANERJEE.
The Hon'ble SURENDRANATH BANERJEE.

CHOTA NAGPUR TENANCY BILL.

The Hon'ble Mr. GRIMLEY in presenting the Report of the Select Committee on the Bill to regulate the enhancement of rents, the commutation of predial conditions or services, and the registration and resumption of intermediate tenures, in parts of Chota Nagpur, said:—

"It is not necessary to make any lengthy remarks, for when I last had the honour of addressing this Council on the subject, I entered upon a full description of the circumstances which led up to the proposed measure. I gave an account of a long series of disputes between the aboriginal cultivators of the soil and their alien landlords—disputes culminating in a serious agitation which menaced the peace of the country, and gave much trouble to the district authorities. There were faults on both sides: the zamindars for their part demanding more than they were entitled to get, and the raiyats in their turn refusing to pay their legitimate dues, and in some instances claiming to hold land at a quit-rent direct from Government, without the

intervention of any zamindar, and seeking to put back the clock of time several centuries and revert to an age when landlords and rents were unknown. The disputes to some extent were traceable to the peculiar system prevailing in Chota Nagpur, under which rents are payable in money, in kind, and in service. The payments in kind are contributions of the produce of the land and stock, tithes of all sorts, pots of milk, vessels of ghee, measures of dhan and rice, cotton, sheep, goats, buffaloes, and here and there a fighting cock in those parts of the country where cock-fighting is a favourite pastime. These contributions are usually termed *rakumáts* and are recognised by the Courts as rent. When the landlords and tenants are on friendly terms, the quantity is determined by the good-will of both: but when there is any tension disputes arise, and the Courts find a difficulty in arriving at a satisfactory settlement. The services to be rendered by the raiyat consist in tilling the lands of the landlord, building his house, and occasionally carrying his luggage. The customary service is three days' digging, three days' ploughing, three days' sowing, three days' cutting, with one or two days for threshing and storing grain. On the last occasion, when the agitation took a pronounced form, it was decided by the Government of Bengal, in consultation with the Commissioner, and with the concurrence of the Government of India, that the best way of preventing disturbances in future would be to give Government the power of intervening and of compelling both landlord and tenant to accept commutation of the *rakumáts* and services into a money rental. Under the present law, commutation can be made if the parties come forward of their own accord and apply for it. The present Bill goes further than this, and allows Government to insist upon commutation whenever it thinks it expedient to do so. It is not intended that this power shall be exercised in every case of dispute, but only when the peace of the district is threatened.

"In addition to the disputes relating to conditions of service, there were other disturbing causes which had reference to the assessment of rent on excess lands, the enhancement of rent, the system of depositing rent in Court, and other vexed questions, and it was considered that the settlement of these matters would be facilitated by the extension of the Bengal Tenancy Act, with certain modifications, to Chota Nagpur, in place of the existing Act, I (B.C.) of 1879, which, in the opinion of many persons, has not been a success. In these respects the Bengal Tenancy Act was thought to be better adapted to the requirements of Chota Nagpur than the existing law, and it was especially deemed an

advantage that the former Act would bring with it a collection of rulings and precepts which would be an invaluable guide to the Courts in deciding cases. It was proposed to omit sections 50 and 74, the former, because the country was not sufficiently advanced to give the raiyats the presumption which it creates in favour of a fixed rent, and the latter, which makes *abwabs* illegal, because it is opposed to the custom of the country, which allows certain cesses to be realised as rents.

"At the present time, however, as the Council is aware, there is a Bill under consideration for the amendment of the Bengal Tenancy Act in some important respects, and in view of this fact, the Select Committee are of opinion that this would be an inappropriate time to extend that Act to Chota Nagpur. I accept this as a reasonable suggestion, and do not therefore propose to press for the introduction of the Act into Chota Nagpur at present. Act I (B.C.) of 1879 will therefore remain, and section 2 of the Bill, which provided for its repeal, has been omitted from the amended Bill.

"Chapter II of the former Bill was a reproduction with a slight modification of sections 19 and 20 of the present Act, which it was necessary to retain, as they prescribe the incidents as regards liability to enhancement of certain tenures peculiar to Chota Nagpur. But as that Act is not to be repealed, there is no necessity for repeating the provisions in question in the present Bill. Chapter II has therefore been omitted.

"Chapter IV, relating to the registration and resumption of intermediate tenures, has also been omitted for the reasons mentioned in the Report of the Select Committee. When I last addressed this Council, I explained at some length the object of this Chapter: but as the subject is extremely technical and somewhat intricate, I do not propose to go over the whole ground again. It is sufficient to say that the object was, first, to secure the summary process of resumption which the zamindar possesses under Act I (B.C.) of 1879 of tenures held conditionally on the survival of male heirs of the original grantee; secondly, to enable him to accept the registration of a transferee without imperilling that right; and thirdly, to provide him with the means of realizing rents from such transferees. With the withdrawal of this Chapter the zamindar will be still left with the same means of resumption as he has under section 34 of the existing Act, but he will continue to labour under his present difficulty in the matter of the recovery of rent. The question of the best means of affording

relief will still remain to be solved when the extension of the Bengal Tenancy Act is again considered.

"Regarding the main provisions of the Bill relating to the commutation and record of predial conditions and services I have but little to say, for section 4 is a reproduction with a slight modification of sections 25 and 26 of Act I (B.C.) of 1879, and relates to voluntary commutation at the instance of either the tenant or landlord. The alteration is in the proviso, which prescribes that, in the case of conditions or services other than *rakumáts*, the rent payable on commutation shall not exceed one-fourth of the rent already paid by the tenant. This is necessary in order to prevent the commutation pressing harshly on poor raiyats. Section 5 enables the Government to order the preparation of a record of predial conditions or services, with or without commutation, whenever it may deem it expedient to make such an order. As I have said before, this provision is intended to meet cases in which such an order is calculated to prevent a serious breach of the peace. Section 6 prescribes the particulars which the record is to contain, which, it will be observed, is a simple record of facts, and does not involve any enquiry into right, title, or status. Section 7 relates to the publication of the record and section 8 to appeals. The provisions regarding appeals follow as nearly as possible those laid down in Act I (B.C.) of 1879. Sections 11 and 12 provide for the defraying of the costs of commutation proceedings and follow section 114 of the Tenancy Act, with the difference that the revenue officer is authorised to require a deposit in advance from the person applying for commutation. The remaining sections of the Bill refer to the power vested in the Local Government for making rules and to the procedure to be observed for making and publishing the rules. The Bill as now prepared is of a simple and non-contentious character, and I trust it will be passed at the next meeting of this Council."

The Council adjourned to Saturday, the 28th instant.

CALCUTTA;
The 4th September, 1897.

F. G. WIGLEY,
Offg. Asst. Secy. to the Govt. of Bengal,
Legislative Department.

Reg. No. 356G—300—8-9-97.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met at the Council Chamber on Saturday, the 28th August, 1897.

Present:

The Hon'ble C. C. STEVENS, C.S.I., Offg. Lieutenant-Governor of Bengal, *presiding.*

The Hon'ble SIR CHARLES PAUL, K.C.I.E., Advocate-General of Bengal.

The Hon'ble M. FINUCANE.

The Hon'ble C. W. BOLTON, C.S.I.

The Hon'ble W. H. GRIMLEY.

The Hon'ble J. G. H. GLASS, C.I.E.

The Hon'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.

The Hon'ble J. PRATT.

The Hon'ble G. TOYNBEE.

The Hon'ble NAWAB SYUD AMEER HOSSEIN, C.I.E.

The Hon'ble A. H. WALLIS.

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH.

The Hon'ble M. C. TURNER.

The Hon'ble NORENDRA NATH SEN.

The Hon'ble SALIGRAM SINGH.

The Hon'ble KALI CHARAN BANERJEE.

The Hon'ble SURENDRANATH BANERJEE.

ALLEGED ASSAULT ON BABU GIRISH CHUNDER MOOKERJEE.

The Hon'ble BABU SURENDRANATH BANERJEE said:—

I have the honour to call the attention of the Government to the statement noted in the margin, taken from a recent issue of the *Amrita Bazar Patrika*, which purports to describe a case of gross and unprovoked assault committed by Mr. Marklew, Inspector of the Sukea Street thana, upon Babu Girish Chunder Mookerjee, M.A., Head-Assistant in the Office of the Registrar of the Calcutta University.

A police *zulum* of an unprecedented character was perpetrated at Machua Bazar Street this morning. At about 9-30 o'clock, when Babu Girish Chunder Mookerjee, M.A., Head-Assistant to the Registrar of the Calcutta University, was about to leave for his office, he was arrested by a *posse* of constables, headed by Inspector Marklew, of Sukea Street thana, assaulted on the public road, and walked off to the thana. The head and front of Girish Babu's offence was that he had asked two police constables, who were beating a supposed thief and abusing him in the filthiest language on a piece of his land close to that part of his house especially intended for the ladies. Girish Babu objected to the violent language used by the constables within the hearing of the ladies, and told them to leave the place. One of the constables went and informed the Inspector of the local thana, and he immediately, with about a dozen constables and head-constables, came to Girish Babu's house, arrested him, and assaulted and took him to the thana in the manner I have mentioned above. He was charged with obstructing police officers in the discharge of their duties. He was afterwards released on bail.

AT THE POLICE COURT.

Later on the same day, Mr. Manuel, with several junior Pleaders, appeared before Mr. Bonnaud, Officiating Northern Division Presidency Magistrate, and applied on behalf of Babu Girish Chunder Mukherjee for a summons against Inspector Marklew of the Sukea Street thana and two of his subordinate Police Officers, for having trespassed into his client's house in Machua Bazar Street, and for having abused and assaulted him, dragged him along the streets to the local thana, although at the time no charge was made against him, and although the complainant's brother, Babu Gopal Chunder Mukherjee, Deputy Collector of Calcutta, desired to know what offence (if any) his brother had committed. It appears that early on Saturday a broken box, which was connected with a charge of theft, was found on an open piece of ground adjoining the complainant's house, and that some Indian Police Officers had taken two men to that piece of ground and were unmercifully beating them, on which the complainant, from an upper window, remonstrated with them. Thereupon, the complainant was called downstairs. On his coming downstairs, the subordinate officers at once laid their hands on him and was dragging him to the thana, when Inspector Marklew came up with a *posse* of policemen, abused the complainant, and hit him a blow in the mouth, cutting his under-lip, and gave orders to drag him to the thana, and, although the Inspector was asked several times by the complainant and his brother and several other respectable neighbours to state what offence he had committed, the Inspector declined to give any reason. As far as the complainant was aware, he was arrested without any justification whatever. In the scuffle he was so flurried that he dropped his spectacles, so that when a document was handed to him and he signed it he did not know a word of its contents. After recording some evidence His Worship granted summonses against Inspector Marklew and his subordinates.

Is it the case, as alleged, that the Inspector assaulted Babu Girish Chunder Mookerjee, cutting his under-lip, and gave orders to drag him to the thana, and that, although the Inspector was asked several times by the complainant what offence he had committed, the Inspector declined to give any answer? If so, will the Government be pleased to state what notice has been taken by the superior authorities of the conduct of the Inspector in the matter? Does the Government consider the Inspector a fit and proper person to remain in responsible charge of a station?

The Hon'ble MR. BOLTON replied:—

"The Lieutenant-Governor's attention was attracted by the case mentioned by the Hon'ble Member, and enquiry has been made. The Commissioner of Police reports that the Inspector did not assault Babu Girish Chandra Mukherji. It appears that two thieves were taken by some police officers to an open plot of

land adjoining that person's house and belonging to him, for the purpose of pointing out stolen property hidden there. Babu Girish Chandra Mukherji objected to the noise which was made, and told the police to leave, pushing or assaulting one of them. He was thereupon arrested by another officer for assault on the police, but broke away. Information was conveyed to Insptector Marklew, who came and re-arrested the Babu at his door, after enquiring whether it was he who had assaulted the police officer and receiving the answer that he had committed no assault, but had got away from the custody of the police. The Inspector did not exceed his powers under the law, but the Lieutenant-Governor is not satisfied that his action was throughout judicious. He is an officer of fourteen years' service, who is reported by the Commissioner of Police to bear an excellent character and to be quite fit for the charge of a station. The case instituted by the police, as well as the complaint filed against them by Babu Girish Chandra Mukherji, has been amicably settled."

ALLEGED ASSAULT BY INSPECTOR LYONS.

The Hon'ble Babu SURENDRANATH BANERJEE said :—

I beg to ask if the attention of the Government has been called to the allegations set forth in the margin, and which are quoted from one of the newspapers.

(*a*) Is it the case that Mr. Lyons, Inspector of the Ekbalpur thana, was fined five rupees by Mr. Wheeler, Joint-Magistrate of Alipore, for committing an assault upon one Jack Blackford while he was in police custody, causing him to bleed, for no other offence than that he had complained to the Inspector of violent treatment at the hands of the constables in whose custody he was?

Another officer of the same (Calcutta Police) force, Mr. Lyons, has, we observe, been fined by Mr. Wheeler, Joint-Magistrate of Alipore, for assaulting a young Eurasian while in police custody. This case has a history of its own well worth reproduction. One night in March last, Mr. Lyons, then in charge of the Ekbalpur thana, received information that some people were having a row in a house close by, occupied by an East Indian family, and he at once started with a couple of dozen constables, as if he was going to put down a riot. Arrived at the house, he found that those whom he wanted had gone away, and an inoffensive young man, Jack Blackford, was the sole occupant of the premises. Against him there was no information before him, and it was abundantly clear that he was not one of the party which was indulging in liquor, and yet Lyons had him arrested, and to cap all, struck him with his fist, causing him to bleed, simply because he had the impudence to complain of the ill-treatment he had received from the constables in whose custody he was. The arrest and the assault, according to the Sessions Judge, before whom the matter went on revision "were perfectly unjustifiable"; but how did the Magistrate dispose of Blackford's complaint when he went to Court? Maulvi Abdul Kader, who first took judicial cognisance of the matter, declined to issue a process upon the European Inspector, but wanted a police report first. In vain did Blackford protest against Superintendent Forsyth—the *alter ego* of the Inspector—having anything to do with his complaint; but the Magistrate, whose sole aim was to stand well with the Police and be a *persona grata* with the Commissioner of Police, was inexorable. Mr. Forsyth's report, as was anticipated, was adverse to the complainant, and then the Magistrate held an elaborate inquiry, during which Mr. Forsyth represented the accused with the result that the complaint was dismissed under section 203, Criminal Procedure Code. Mr. Lyons was deemed too big a swell to be summoned as an accused and placed on the dock. Discomfitted before the Magistrate, poor Blackford had to approach the Sessions Judge, who, fortunately for him, at once saw the injustice of the Magistrate's order, and directed processes to issue against the Inspector. The Judge would not trust the Maulvi with the re-trial of the case, and it was, therefore, made over to Mr. Wheeler, who found, in spite of Mr. Forsyth's evidence to the contrary, that Blackford's version of the assault was substantially correct. For full five months this man had to run from Court to Court to seek that justice which came tardily in the end.

(*b*) Is it the case that the Deputy Magistrate before whom Blackford complained called for a report from his immediate superior officer, Mr. Forsyth, the Superintendent, and that upon such report and after such enquiry as the Deputy Magistrate made, he declined to issue process?

(*c*) Is it the case that the District Judge before whom an appeal was made against the orders of the Deputy Magistrate characterized the assault committed upon Blackford as "perfectly unjustifiable," and directed process to issue against the Police Inspector, and the case having been made over by the Judge to a Magistrate other than the Deputy-Magistrate who had heard the complaint, viz., Mr. Wheeler, the Joint-Magistrate of Alipore, the said Joint-Magistrate fined the Inspector five rupees, notwithstanding the evidence of Mr. Forsyth, the Superintendent, to the contrary?

(*d*) Will the Government be pleased to state what notice has been taken of the conduct of the Inspector who was convicted by a Judicial Court of assault committed upon a person in his custody?

The Hon'ble MR. BOLTON replied:—

"The Lieutenant-Governor has perused papers relating to the case referred to. It is true that the Inspector was fined by the Joint-Magistrate, as stated, that the Deputy Magistrate had previously refused to issue process against him, and that the Judge ordered the hearing of the complaint, believing from the evidence before him that an assault had been committed by the Inspector. On full consideration of the circumstances of the case, the Lieutenant-Governor sees no necessity for any interference on the part of the Government in this matter."

ESTATES PARTITION BILL.

The Hon'ble MR. FINUCANE moved that the Report of the Select Committee on the Bill to amend the law relating to the Partition of Estates be taken into consideration, and that the clauses of the Bill be considered in the form recommended by the Select Committee. He said:—

"I have nothing to add to what I have said on previous occasions."

The Motions were put and agreed to.

[*Babu Norendra Nath Sen; Mr. Finucane.*]

The Hon'ble BABU NORENDRA NATH SEN moved that section 7 be struck out. He said:—

"Section 7 provides as follows:—

'Where the lands of an estate have been divided by private arrangement formally made and agreed to by all the proprietors and each proprietor has, in pursuance of such arrangement, taken possession of separate lands to be held in severalty as representing his interest in the estate, no partition of the estate shall be made under this Act except (*a*) on the joint application of all the proprietors, or (*b*) in pursuance of a decree or order of a Civil Court.'

"I need not read clause 2 of the section because it does not concern me. This section 7 is a reproduction of section 12 of the existing Act with a couple of amendments added, but it was omitted from the Bill as originally introduced into the Council. Of course the section, as it stands, is a harmless one when all the proprietors of an estate apply jointly for partition, a contingency which, however, is very rare. What generally happens is that a private partition is sought to be set aside by one or more of the proprietors, and then it is left to the Collector to determine whether the alleged partition did actually take place or not. All that I urge is that the determination of all questions like these should be left entirely to the Civil Courts, who alone are fitted to adjudicate them. The Collector is not the proper person to decide them, since he has neither the power nor the machinery for doing so. He cannot take evidence under the Evidence Act, and yet under section 12 of the present Act not a few private partitions have been upset altogether, the plea of mere possession, however long, having been summarily rejected. That section has done more harm than good, for it has given rise to many conflicting rulings by the Board of Revenue, as would appear from the Board's 'Butwara Manual;' for the words 'formally made and agreed to' introduce a wholly vague element into the meaning of the section, and instead of improving matters rather make them worse. The phrase is indefinite and capable of any construction that may be put upon it. I therefore move that section 7 of the Bill be omitted altogether."

The Hon'ble MR. FINUCANE said:—"I must oppose this amendment. As the Hon'ble Member has pointed out, section 7 reproduces section 12 of the existing Act. Section 7 recognises the right of proprietors to make a private arrangement among themselves by which they can each take possession of separate lands to be held in severalty as representing their separate interests, and debars

the upsetting of such an arrangement, except on the joint application of all the proprietors or in pursuance of an order of a Civil Court. This right of proprietors to make a private partition, which is not to be ignored, except on the application of all of them, was conferred by Article IX of the Permanent Settlement Regulation, I of 1793, and I cannot conceive why the Hon'ble Member should wish by striking out section 7 to deprive proprietors of a privilege which they have always enjoyed. It is true that section 7 was omitted from the earlier editions of the Bill, because the corresponding section 12 of the Act was thought to be of very limited application, and was said to have been used as a subterfuge for delaying partition proceedings. The Select Committee did not, however, consider that these were sufficient reasons for withdrawing a right which had always been allowed. By sub-section (*2*) the Committee have guarded against the danger of the section being used to delay the proceedings. The Hon'ble Member says the Collector is not the proper person to decide questions of right or title; but as far as I can see, the Collector has nothing to do with the settlement of questions of right under this section. As to the objection which the Hon'ble Member has taken to the words 'formally agreed to by all the proprietors,' I would remark that this phrase was carefully considered by the Select Committee. It is in accordance with the decisions of the Board of Revenue quoted in the Partition Manual, and is only intended to secure that the private arrangement shall be properly and formally made. The word 'formally' was put in to show that it must be a thorough *bonâ fide* private arrangement, though not necessarily to be registered or put into writing. For these reasons I oppose this motion."

The Motion was put and negatived.

The Hon'ble BABU SURENDRANATH BANERJEE moved that in section 7, sub-section (*1*), the following words be inserted after the word 'proprietors' in lines 4 and 5, namely:—

'existing at the time when the arrangement was made.'

He said:—"I desire to call attention to the words of section 7, and will read the section with my amendment interpolated. The section would then run thus:—

'Where the lands of an estate have been divided by private arrangement formally made and agreed to by all the proprietors existing at the time when the arrangement was made, and each proprietor has in pursuance of such arrangement, taken possession.'

"The amendment is a very small one, and does not involve any question of principle whatever. The word 'proprietor' is used in sub-section (*1*) of section 7. We have the word 'proprietor' also in clause (*a*) of sub-section (*1*), where it means 'present proprietor.' We have thus the word used in two different senses in two different places in the same section. The present proprietor may not be the proprietor existing at the time when the arrangement was made, although he may be the representative of such proprietor. The object of the amendment is to obviate all doubt and inconvenience which may arise from such a state of things."

The Hon'ble MR. FINUCANE said:—"I am sorry I cannot accept this amendment, which is one which the Select Committee considered. We considered the words 'existing at the time when the arrangement was made' to be perfectly superfluous. An arrangement made by all the proprietors must mean by the proprietors existing at the time, because proprietors who were not then existing could not have made an arrangement; and persons who become proprietors after the making of the arrangement were not proprietors at the time the arrangement was made. The words proposed to be introduced are therefore superfluous as a matter of drafting."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Having got this expression of opinion from the Hon'ble Member in charge of the Bill, that the word 'proprietors' means proprietors existing at the time the arrangement was made, I beg leave to withdraw my amendment."

The Motion was, by leave, withdrawn.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that in section 7, sub-section (*2*), the figures "29" be substituted for the figures "28."

The Hon'ble MR. FINUCANE said:—"I accept this amendment. It is a mere clerical amendment which the Secretary discovered independently."

The Motion was put and agreed to.

The Hon'ble BABU SURENDANATH BANERJEE also moved that the following proviso be added to section 7, sub-section (*2*), namely:—

'Provided that it shall always be in the discretion of the Collector in case of hardship to entertain an objection even after an order under section 29 has been passed, subject to such conditions as regards costs as he may prescribe.'

[*Babu Surendranath Banerjee.*]

He said :—" As this proviso is a proviso to be added to sub-section (*e*) of section 7, it will be necessary to call the attention of the Council to that sub-section. It says :—

'No objection to the partition of an estate under this Act on the ground that the lands have been divided by private arrangement shall be admitted unless it is presented before the Collector records a proceeding under section 29 declaring the estate to be under partition.'

"The object of my amendment is to empower the Collector to entertain objections even after an order has been made under section 29. Whether an objection is to be entertained by the Collector or not will depend entirely on the discretion of that officer, and I think the Council will deem the Collector to be a sufficiently responsible officer to be entrusted with this discretion, and to be sufficiently qualified to exercise that discretion in a manner that may be consistent with justice. It is a notorious fact, and we have recognized it in various enactments which have been passed by this Council, that notices in this country are often very unsatisfactorily served. My amendment will provide a remedy. If a proprietor has not received a notice and has not been able to make his objection, then it will be in the discretion of the Collector to receive his objection even after a proceeding has been recorded under section 29. I am supported by the high authority of the Board of Revenue in this matter, and I call attention to page 4 of the last letter of the Board of Revenue. They say 'Mr. N. K. Bose, the Collector of Rajshahi, suggests that in view of the unsatisfactory nature of the service of notices in this country, the limit of time for an objection may be extended up to one month.' Mr. Forbes (Commissioner of the Chota Nagpur Division) observes that the time limit seems unnecessarily despotic, and proposes the addition of a proviso permitting extension of time, for special reasons, by the Commissioner, subject to such conditions as regards costs as he may prescribe. There is some force in these objections, as the arrangements for the service of notices are not always infallible, but there can be no doubt that the existence of a private partition is occasionally asserted on uncertain grounds at a very late stage in the proceedings merely for the sake of delay and obstruction. To obviate this, it is desirable that a limit of time should be fixed as provided in the Bill, but to meet cases of hardship some exception might be permitted, either by adopting the suggestion of Mr. Forbes, or by giving the Collector authority to receive the objection, subject to such

conditions as regards costs as he may prescribe, at any subsequent time before he records an order under section 49 of the Bill.

"My amendment simply embodies the suggestion of the Board, and I hope it will be accepted."

The Hon'ble MR. FINUCANE said:—"I cannot accept this amendment. It was proposed by Mr. Forbes in his report upon this Bill. It was considered by the Select Committee, and they thought that it ought not to be accepted. As the sub-section stands objections can be presented at any time before the Collector records a proceeding under section 29, that proceeding being a declaration that the estate is under partition. If the Hon'ble Member will refer to section 29, he will find that before a proceeding can be recorded under that section, a notification must be published under section 21 calling upon all the proprietors of the estate under partition and upon all the proprietors of the neighbouring estates to file their objections. That notification must allow thirty days at least from the date of the publication of it for filing objections, and therefore there is ample time for everybody interested to make his objections before the Collector records a proceeding under section 29. The objection to the amendment which the Hon'ble Member proposes is that it would be open to persons interested to try to cause delay by coming forward at all stages and at any time during partition proceedings, and alleging that they had not received due notice, and the effect would be not only to delay the proceedings but to add to the expense of them. One of the objects of the Bill is to shorten the procedure and to cheapen the cost of obtaining partition. It seemed to the Select Committee that the time given is amply sufficient, and therefore I cannot accept the amendment."

The Motion was put and negatived.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that the following proviso be added to section 8, namely:—

'Provided that the interest of a Hindu widow in the estate of her deceased husband shall not be deemed to be a life-estate under the terms of this section.'

He said:—"I beg to call the attention of the Council to section 8, which provides as follows:—

'Notwithstanding anything hereinbefore contained, no person having a proprietory interest in an estate for the term of his life only shall be entitled to claim partition under this Act.'

"My amendment seeks to give effect to what is the Case Law on the subject. It has been more than once held that the interest which a Hindu widow possesses in the estate of her deceased husband is something more than a life-interest, and that she is fully entitled to partition. Therefore, instead of allowing this right to rest on the decision of the Courts, I propose to embody it as a part of the substantive law. I know that that is the view of the High Court, and I have before me rulings of the High Court on the point. But I venture to suggest that having regard to the fact that we are now legislating on the subject, it is desirable that we should embody the rulings of the Court in the law of the land. I believe the principle is conceded, and there is no difference of opinion between the Hon'ble Member in charge of the Bill and myself. It is only a question as to how we should proceed. If, however, the Council is of opinion that it is not expedient to introduce this amendment, I have no serious objection to offer."

The Hon'ble MR. FINUCANE said:—"The High Court decided in the case of Mahadeb Kooer *versus* Hari Narain and others, that the interest of a Hindu widow succeeding as heir to her husband's estate is more than a life-interest; therefore she would not be debarred, as the section stands, from claiming partition. But the amendment of the Hon'ble Member might possibly frustrate his object, for he says that for the purposes of this section the interest of a Hindu widow is not a life-interest, which might be taken to mean that it is less than a life-interest. However that may be, I oppose the amendment on the ground that it is superfluous."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I don't accept the view put forward by the Hon'ble Member in charge of the Bill. I do not accept the interpretation which he has put upon my amendment. Section 8 creates a disability. I want to remove this disability from the status of a Hindu widow; therefore, instead of lowering her condition, I think my amendment will improve it. At the same time, having heard what has fallen from the Hon'ble Member, I desire to withdraw this amendment."

The Motion was, by leave, withdrawn.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that for clauses (*a*), (*b*) and (*c*) of section 11 the following be substituted, namely:—

'if the separate estate of any of the proprietors would be liable for an annual amount of land-revenue not exceeding one rupee, until the proprietor of such separate estate agrees to

redeem the amount of the revenue for which his estate would be liable by payment of such sum as the Lieutenant-Governor may fix with reference to the circumstances of such estate.'

He said:—" This is the most important amendment which I have the honour to place before the Council, and it affects the section which may be regarded as the keystone of the Bill. The object of the Bill, to the explanation of which the Hon'ble Member in charge devoted a considerable portion of his speech when introducing the Bill, is to raise the limit of partition from Re. 1 to Rs. 10. The object of my amendment is to keep the law as it is. I claim that it is incumbent on the Hon'ble Member to make out a case for the change which he proposes. He is in favour of a modification of the law: I wish to keep things as they are. Therefore the burden of proof is not on me, but on him. It is maintained on behalf of the proposals of the Government that they will benefit the zamindars; that they will benefit the raiyats, and will afford relief to the executive officers of the Government, who are overburdened with the work of opening separate accounts. We have a unanimity of opinion emanating from zamindars on this subject. The British Indian Association represent the interests of the zamindars, and the Association may be regarded as the accredited exponent of the zamindars' feelings and sentiments in this part of Bengal, and they have made a strong protest against the proposal for raising the limit of partition from Re. 1 to Rs. 10. Again, Babu Guru Prosad Sen, who was for some time a Member of this Council, and is the Secretary to the Behar Landholders' Association, protested against it. The Indian Association, with which I have the honour to be connected and which looks at the matter from the point of view of the raiyat, also strongly protests against it. Therefore, while the Government is solicitous of conferring a boon on zamindars and raiyats, zamindars and raiyats, strangely enough, seem to be insensible of the benefit which it is proposed to bestow on them. Nor is this all. Not a single English journal in this country which has referred to this matter is in favour of the change which is proposed. I will read to the Council an extract from the *Englishman* bearing on my amendment, and it is remarkable that the *Englishman* and myself should be found in agreement. The *Englishman* says:—'Apart, however, from the question of procedure, the Bill introduces one radical change in restricting the limits within which estates may be divided. * * * What is the reason of the proposed restriction of partition? Under the existing law co-sharers in estates are encouraged to separate their interests

and to form properties which they can efficiently manage, and for which they can be held responsible. If the Government revenue is not more than a rupee, the owners of the estate are allowed to reduce it, and they then have a well-ordered property which has discharged its functions to the State, and which is a source of strength to the country. It seems clear to any one but a Government official that it must be better for the country to have a number of single estates than to have a few large estates held by the numerous co-sharers whose quarrels and disputes are a constant cause of trouble to the country, and prevent all chance of improvements or the other advantages which follow good management of landed property.'

"I find that this opinion is also shared by certain managers of Wards' Estates. Mr. Buskin, the Manager of the Hutwa Raj, says that 'the existing limit of one rupee should be allowed to stand.' But it is not only the opinion of zamindars and raiyats and of the non-official European community that is arrayed against this provision of the Bill. There is a considerable body of official opinion in opposition to this section, and I desire to refer to it. And the first opinion that I shall quote will be the opinion of an honoured and honorable colleague of ours. I refer to Mr. Toynbee, who as Commissioner of the Dacca Division expressed himself in favour of retaining the present limit of partition. I do not know if the Hon'ble Member still adheres to that opinion, but I hope his translation to a seat in this Council has not led to any serious modification of his views. Mr. Toynbee said, writing on the 15th May, 1897,—'Personally I am in favour of leaving section 11 of Act VIII (B.C.) of 1876 as it is, or of extending its limit to, say, Rs. 5 or Rs. 10, the latter for choice. It is the *smallest* shareholders who most require the protection of the partition law, and yet it is proposed to practically take it away from them, in order to simplify the tauzi accounts.' This is the deliberate opinion of Mr. Toynbee given so late as the 15th of May last. But Mr. Toynbee does not stand alone; he is supported by a formidable body of opinion entitled to the highest weight and consideration at the hands of this Council. There is the opinion of Mr. N. K. Bose, who for sometime was Secretary to the Board of Revenue, and therefore must be taken to be an expert in a matter of this kind. He says, as Magistrate and Collector of Rajshahi, that he would prefer the section as it stands in the present law. Then we have Colonel Evans Gordon who says:—

'The native members, who may be taken to represent the general views of the landlords in this province, object to the fixing of any limit at all. Government thinks that the

imposition of a limit is necessary to prevent a large addition to the number of estates, and the consequent increase in the work of the Tauzi Department. It is also considered that partition into very small estates may endanger the safety of the revenue. As regards the increase of work of the Tauzi Department, it can also be caused by the opening of separate accounts under sections 10 and 11, Act XI of 1859, and section 70 of Act VII of 1876; and so long as these facilities for opening separate accounts remain, the imposition of a limit in the butwara law is not likely to lead to any considerable relief to the Tauzi Department. As regards the insecurity of Government revenue, the Hon'ble Guru Prasad Sen says that most landlords will be glad to redeem their estates, by paying forty times the annual revenue, and this, I believe, to be a fact. If the estates are redeemed, there can be no objection also on the score of likelihood of increase of work. The question whether it will be sound policy to allow the petty proprietors to redeem their estates, by paying forty times the Government revenue, is a different one. It is certain that the amount of revenue that can be redeemed this way will be very small compared with the total land-revenue for the province, and we can safely presume that a good portion out of it will not, as a matter of fact, be redeemed.'

"Then we have Mr. Battavyal, Collector of Bogra, who says the same thing. He observes that:—

'So long as the right to have separate accounts opened for any amount of land-revenue, however small, remains unrestricted, there will be very little gain, from an administrative point of view, by the proposed limitation. Each separate account for Road and Public Works Cess purposes counts as an estate. And in the tauzi ledger, the complications introduced by separate accounts are, in fact, greater than those created by the formation of new estates by partition. In fact, for purposes of account, a new estate is much simpler than a separate account. I am, therefore, of opinion that the proposed limitation may be abandoned.'

"I need not trouble the Council with further quotations. Here we have the opinions of high and responsible officers of Government, which are directly opposed to the position which the Government has assumed in this Bill. As far as relief to the executive officers of the Government is concerned, it seems to me that that is not a consideration which ought to weigh very much with this Council. The executive officers of Government are distinguished for their splendid devotion to the onerous duties which they are called upon to perform, and I am certain this Council is not going to legislate in a manner which is calculated to cause serious public inconvenience, in order merely to afford relief to the executive officers of the Government. If you enact into law this section in the Bill, you will deprive 35 per cent. of the petty estates of the right of partition. The zamindars do not want it; the raiyats do not want it; the executive officers of the Government are not likely to gain any

considerable advantage from it; therefore it seems to me that the Government undertakes a serious responsibility by proposing the repeal of this section of the law. I venture to make an appeal to the Government—I would venture to appeal to you, Sir, not to allow the Government, over which you preside, amid the heart-felt satisfaction of all classes of the community, to incur this grave responsibility."

The Hon'ble MR. FINUCANE said:—"I must oppose this amendment. It seems to me that the course which the Hon'ble Member has taken with reference to this amendment is calculated to impede public business and to cause a serious waste of the time of this Council. Under rule 33 of the rules of business the principle of a Bill and the general provisions of it may be discussed when the Bill is referred to a Select Committee, or when any of the motions mentioned in rule 31 are made by the Member in charge, or on the occasion of any subsequent discussion with reference to any of those motions. That stage of a Bill is the stage at which the general principle of it ought to be discussed, as on the occasion of the second reading of a Bill in the House of Commons; for it would be obviously most inconvenient and futile if when members are opposed to the principle of a Bill, the Bill should be referred to a Select Committee to consider it clause by clause, thus wasting the time of the members of the Select Committee for several weeks to no purpose, if at a subsequent stage the whole principle of the Bill and consequently the Bill itself is liable to be rejected. When I introduced this Bill I laid great stress on the fact that one of the two main principles of it was the imposition of a limit on partibility of the revenue other than that imposed by the present law. The Hon'ble Babu Surendranath Banerjee took part in that discussion, and so also did other members. They stated their reasons at great length against the imposition of an increased limit, and I endeavoured to answer them at considerable length, and I invited them to put the question then to the test of a vote, but they declined to do so. Now the Hon'ble Member seriously asks the Council to reject the whole principle of the Bill after considering it for sixteen months, and after previously accepting the principle and unanimously referring the Bill to a Select Committee. I will not oppose this motion on the ground of its being out of order, but I submit that the course adopted by my hon'ble friend is one which is productive of serious inconvenience. If it were to be frequently followed, the question may arise

whether it would not be well to amend the rules, and make it clear that the principle of a Bill should be discussed when it is referred to a Select Committee, and only then. The Hon'ble Member at that stage said:—'The Hon'ble Member referred to two matters of principle, one of which was to raise the limit of partition from Re. 1 to Rs. 100. If this part of the Bill is not modified, and considerably modified, the effect of the measure will be to preclude a large number of estates;' and so on. Again he said this—'I congratulate the Hon'ble Member on the statement which he has made that the Government will be open to make a considerable modification in the Bill by the light of the opinions which have been received, and I hope and trust that when this Bill emerges from the hands of the Select Committee, it will be so recast and modified as to commend itself to the approval of the Council and of the country in general.' We have made very considerable modifications. We have gone to extreme lengths in modifying provisions to which the Hon'ble Member and others objected, but the Hon'ble Member is not satisfied, and he asks us now to reject the whole principle of the Bill. Why did not he ask the Council to reject the Bill at the time that it was referred to the Select Committee? Why should he have wasted our time by referring the Bill to a Select Committee, and now ask us to do what he had an opportunity of doing then, but did not do?

"I have listened carefully to the arguments which the Hon'ble Member has now brought forward, and by which he hopes to induce the Council to contradict the conclusion to which it came in referring the Bill to a Select Committee. I can find nothing in what the Hon'ble Member has now said which was not advanced before by the Hon'ble Member and by Babu Guru Proshad Sen and other members of the Council who were opposed to the principle of the Bill, and nothing which I did not answer sufficiently and at length on that occasion. The force of the arguments which are now again brought forward gains nothing by repetition, nor will repetition add to the force of the arguments I brought forward in reply. The Hon'ble Member has advanced nothing that is new. He has quoted the opinions of some Government officers. The opinions of Government officers were quoted at that time, and the number who expressed opinions in favour of the Hon'ble Member's view could be counted upon one's fingers' ends. The Hon'ble Member said he would not quote any further from official opinions, but the fact was that he had few, if any further

official opinions to quote on his side. Excepting those of some six or seven members of the Civil Service, the opinions of Revenue Officers are unanimously in favour of the principle of the Bill. The Hon'ble Member also referred to the opinion of the High Court, but the High Court are in favour of an increased limit, and an overwhelming majority of the officers of the Government are in favour of not only the moderate limit now proposed, but even of a much higher limit. The Hon'ble Member mentioned the name of Mr. Toynbee, but I dare say Mr. Toynbee has seen reason to modify his opinion. Mr. Toynbee, however, is here, and can speak for himself. The other officers whose opinions have been quoted have not had much experience of the working of the partition law. Then the Hon'ble Member says the *Englishman* is in favour of the provisions of the existing law on this subject. I do not know what interest the *Englishman* is supposed to represent in this matter. If the *Englishman* represents any body of persons in this matter, it may be supposed to represent the interests of the indigo planters, but the Planters' Association is entirely in favour of this provision of the Bill. Then the Hon'ble Member said the zamindars are entirely against it. Perhaps the Hon'ble Member will admit that the Maharaja of Gidhour, who is a member of this Council and is a very important zamindar, may be entitled to hold an opinion on this subject. I have just received a letter from him which he has asked me to read to the Council. He says—

'I think the section of the Bill as amended by the Select Committee ought to be allowed to stand. A further sub-division of an estate than the limit proposed will not be at all advantageous to anybody, and may lead to administrative difficulty, as far as the collection of the Government revenue is concerned. Small fractional shares sometimes present very little inducement to people to purchase and sometimes may not be sold at all. Sub-divisions *ad infinitum* may thus endanger the revenue. Thus again the excessive sub-division of an estate is very far from desirable, considered from the standpoint, either of the landlord or of the tenant. But such division cannot be avoided and partition may sometimes afford relief. In such a case the party has got his remedy in Civil Court; for all these reasons I would like to support the recommendation of the Select Committee.'

"Then there is my hon'ble friend Saligram Singh, he is also in favour of the limit now proposed, and he may be taken to represent the views and interests of the important body of zamindars of Bihar—a division in which nine-tenths of the whole number of partitions are effected. The High Court, the Indigo Planters' Association, the Government of India, the Government of Bengal, the vast majority of Revenue Officers, the Hon'ble Members of this Council who

represent the zamindars' interests, are all in favour of an increased limit, and yet the Hon'ble Member says that everybody whose opinion is of any importance is in favour of his amendment. I think it unnecessary to occupy the time of the Council in repeating what I said when I introduced the Bill and when it was referred to the Select Committee, and will therefore conclude by saying that I oppose this amendment."

The Hon'ble SIR CHARLES PAUL said:—"I must say a few words on this subject. The Hon'ble Member who has moved this amendment seems to think that the only persons interested in this matter are the zamindars, and that he will overcome all opposition to his amendment simply by stating that the zamindars are opposed to this provision in the Bill. But he forgets that the Government are equally, if not more, interested than anybody else in this matter. If the Government had not by an old Regulation provided that estates may by partition be separated in regard to the payment of revenue, they might have said we shall have no partition whatever. They, however, conceded that benefit to the zamindars. Now, the question is one purely of convenience whether it will be convenient or inconvenient to have small estates paying Government revenue to the amount of one rupee each partitioned. I apprehend that the persons best able to judge on the question of convenience or inconvenience are the Government who have to collect the revenue. Looking at it from this point of view, I see nothing in the opposition which has been made to the Bill. Looking at it from the other point of view, it may be contended that estates should be allowed to be divided down to a limit of eight annas. Why have a limit of one rupee, if the proposition is that all estates, however small, might be turned into separate estates? But the very first time this limit of one rupee was suggested, it opened out the question whether it was the right limit or whether the limit should be raised a little higher. That, I submit, is a question of convenience, and there is little in the objection which has been raised to the provision contained in the Bill. The objection, however, is very ingenious in its character. The Government proposed a limit of Rs. 100, and has actually come down to Rs. 10, and yet there are persons who are not satisfied. I look upon this as an ungenerous opposition to the views of the Government, and I trust that the Hon'ble Member, who is well known for his generosity and the liberality of his views, will not ask the Government to go further."

[*Babu Surendranath Banerjee; Babu Norendra Nath Sen.*]

The Hon'ble BABU SURENDRANATH BANERJEE in reply said:—"I protest against the remark of the hon'ble and learned Advocate-General that my attitude in respect of this matter is an ungenerous attitude. We have come here to discharge a duty—I had almost said a sacred duty—which we owe to our constituents. We are here to give expression to what we believe in our heart of hearts to be public opinion, and if in doing so, we expose ourselves to unwarrantable charges, such as have been brought against us, we shall not be deterred from the discharge of our duty to those who have returned us to this Council. With reference to the observations which have fallen from the Hon'ble Member in charge of the Bill, I may say that if I have placed him in a somewhat inconvenient position by starting a question which had been considered before, he has likewise placed me in a somewhat inconvenient position by confronting me with the opinions I had expressed on a previous occasion. I do not depart from what I said before. I stick to my guns. I hoped on that occasion that this Bill would emerge from the Select Committee modified by the light of public opinion. My amendment follows the lines of public opinion; the Bill does not. My hon'ble friend says:—Whom does the *Englishman* represent? I am not in a position to answer that question, but I will ask in return—Is there any public journal which has supported the views of the Government? [Mr. Finucane:—'Yes, for example, the *Daily News*.'] That is the only paper which has supported the views of the Government. Opposed to that we have the *Englishman*, the *Hindu Patriot* and other journals. I suppose they represent some body, if the *Englishman* does not. I don't imagine there is the smallest chance of my amendment being accepted, but I desire to state once again that by raising the limit of partition to Rs. 10, the Government is undertaking a responsibility which will be attended with disastrous results to the interests of a large number of poor proprietors in whose behalf we beg leave to raise our voices here."

The Motion was put and negatived.

The Hon'ble BABU NORENDRA NATH SEN moved that for clauses (*a*), (*b*) and (*c*) of section 11, the following be substituted, namely:—

'If the result of such partition would be to form a separate estate, liable for an annual amount of land-revenue less than five rupees.'

He said:—"Section 11 is the most important of all sections in this Bill and calls for serious consideration. Practically the limit provided by section 11 of

[*Babu Norendra Nath Sen.*]

the Bill is Rs. 15, below which no partition is to be allowed. If this limit is not lowered, the consequence will be that about, I will not say 34 per cent., but I will say about 64 per cent.—I speak under correction—of the estates on the revenue roll will be excluded from partition: not a very small number certainly. The Butwarra Law is as old as the permanent settlement, and the first law on the subject which was introduced contemplated no limit in amount as to partitions, and I contend that the right to claim partition is inherent in joint owners. It is true that Regulation VI of 1807 imposed a limit to the partition of estates with a revenue demand of less than Rs. 500; but that Regulation was repealed only three years after, it having been found to be unsatisfactory in its operation. Any restriction on partition of estates is unknown in any other part of India except Assam, where even the minimum limit is Rs. 5. If there is no limit in temporarily-assessed tracts where partition should be rather discouraged than otherwise, how much more important must it be to allow sub-division of estates in the case of permanently-settled lands. After the repeal of Regulation VI of 1807 no attempt was made in the direction of restricting the partition of estates until 1876, when the present Act was passed by which such restriction was confined only to estates with a *sadar jumma* of Re. 1, and even in that case power was given to redeem the revenue by payment of a lump sum. This power is now taken away altogether. With the abrogation of this power I think there is greater reason why the limit put by section 11 of the Bill should be reduced still more. The policy of the British Government, as far as I understand it, has always been to improve the Butwarra Law. That was the object in enacting Regulation XIX of 1814, which reduced to one regulation, with certain additions and alterations, a number of regulations respecting the partition of estates paying revenue to Government. The same object influenced the Legislature in passing the present Act VIII (B.C.) of 1876, which was intended to simplify the partition procedure. And now the avowed object of the present Bill is to simplify, cheapen and shorten the partition procedure. If it is intended to confer a boon on the proprietors of estates by passing this Bill into law, why must we take away a much valued power which has been hitherto enjoyed by such proprietors. My motion is a more modest one than that of my hon'ble friend Babu Surendranath Banerjee. I ask you to reduce the limit to Rs. 5, the same limit which is observed in the Assam Regulation I

[*Babu Norendra Nath Sen.*]

of 1886. If the limit is Rs. 5 even in such a backward province as Assam, I do not see why the limit in a forward province like Lower Bengal should be higher. Already much protection is afforded to petty co-sharers of an estate by allowing them to have separate accounts under sections 10 and 11 of Act XI of 1859, (the Sunset Law); but, as we know, in spite of the opening of such separate accounts, the entire estate may be sold under that law if the sale of the defaulting co-sharer does not fetch the entire amount of revenue due. Such being the case, why not make the protection complete by allowing such petty co-sharers to separate their interests with separate liabilities? That will stop the sale of the entire estate, and will be quite consistent with the benevolent spirit of the legislation which has been hitherto followed. For the sake of consistency, as well as for the maintenance of a continuity of policy, it would be well, Sir, if you could see your way to making some compromise by adopting my motion and assimilating the law at least of benighted Assam to that of advanced Bengal. Here in this very chamber, when the present Act was passed, the Hon'ble Mr. H. J. Reynolds distinctly said that 'in the opinion of the Government of Bengal it is not desirable that a partition which would result in the formation of an estate with a revenue of less than Rs. 20, should be prohibited,' or 'that such prohibition should be enforced by law.' 'There might be inconveniences,' he added, 'connected with the multiplication of petty estates, but it had always been conceded that landed proprietors had a right to have their estates divided if they chose to demand partition, and the Government did not consider that that right should be abrogated or denied to them. Accordingly in the Bill it was proposed * * * to allow partition to be carried out down to the limit of one rupee with power to the landholder to redeem in case the land revenue, after partition should be less than one rupee. * * * * * * It was, of course, an open question whether the inconveniences which would result from excessive multiplication of small estates ought not to outweigh all other considerations. But he trusted the Council would accept the view taken by the Government, that this right was one which the Government was to a certain degree pledged to allow to landholders; that it was a right they had always exercised, and a right which ought not to be taken away.'

"After this distinct declaration by Mr. Reynolds, all that I submit is that Your Honour should feel considerable hesitation in passing this Bill into law without

altering in a large degree section 11 of this Bill. As to the so-called administrative inconveniences arising from too minute sub-division of estates, I do not think the complaint is worth much when separate accounts are allowed to be opened under the Sunset Law, and when only the opening of an additional column in such accounts for insertion of the *tauzi* numbers of the estate will obviate all difficulties."

The Hon'ble MR. FINUCANE said:—"I am afraid I cannot accept this amendment. The proposal of the Hon'ble Member is, as he has said, very much more moderate than that of the Hon'ble Babu Surendranath Banerjee. It in fact differs very little from the Bill as it stands. His proposal is that no estate should be admitted to partition if the effect of the partition would be to create a new estate with a separate revenue of less than Rs. 5. In the Bill as it stands Rs. 5 is the absolute limit below which a new estate cannot be formed. The only difference is, we propose that partition shall be refused if the applicant's share after partition would be liable for a revenue not exceeding Rs. 10. According to our proposal, no estate with a revenue less than Rs. 15 can be partitioned, but according to the Hon'ble Member the limit would be Rs. 10. The difference is slight; but slight as it is, I cannot accept it. The Hon'ble Member has with much force adduced arguments which might tell in favour of the proposal of the Hon'ble Babu Surendranath Banerjee to impose no limit whatever. But I have listened carefully for any argument in favour of the proposal raised by the amendment now before the Council. Before I enter into that question I may state that the Hon'ble Mr. Reynolds subsequently withdrew the opinion quoted by the Hon'ble Member, for when he expressed that opinion, he was apparently unaware of the existence of the law which imposed a limit of Rs. 500, and he subsequently admitted that he was entirely wrong in stating that zamindars always had a right to unlimited partition. The permanent settlement imposed infinitely more severe restrictions on partitions than we propose. According to the permanent settlement, the only time when a partition could be applied for is when a portion of the estate is alienated by sale or gift, or a portion of it is ordered to be sold by a decree of court, or when all the parties have made a partition and apply for a separation of their interests. A subsequent amendment of the law made such separation practicable on any of the co-sharers applying for partition.

[*Mr. Finucane.*]

"To come back to the question of the particular limit of Rs. 15 or Rs. 10, the Hon'ble Member mentioned two facts not mentioned before. One is that the limit of partitions in Assam is Rs. 5, and the other is that limits on partitions are not imposed in other provinces. But there is no analogy between Assam and Bengal. In Assam the settlement is for the most part *raiyatwari*, and where, as in the Sylhet District, there are permanently-settled estates in Assam, these estates consist of small areas of the size of an ordinary raiyat's holding. In Bengal, as the Council is aware, the case is altogether different. Estates are large, and revenue has to be paid under the Sunset Law in the Collector's office at the headquarters of the district. One of the objects of this Bill is to obviate the necessity of creating a large establishment in the mufassal at the expense of the general tax-payer for the collection of Government revenue in Bengal similar to the mufassal establishments that are required for the purpose in *raiyatwari* tracts. I pointed out when the Bill was referred to the Select Committee that if estates were to become as small in Bengal as ordinary raiyat's holdings (as is the case in Assam), and if the cost of realising revenue were thereby to be increased (as it must be, if unlimited partitions are allowed to go on), the permanent settlement would have all the disadvantages of *raiyatwari* settlements with none of their advantages from the tax-payers' point of view, and that the permanent settlement would thus become an intolerable burden to the tax-payers of other parts of India.

"The Hon'ble Member has referred to the large proportion that the number of estates that will be excluded from partition under the proposed limit bears to the total number of estates in Bengal, but he has overlooked the fact that, if the number of estates that will be excluded from partition be large, it is because these etates have already been subjected to partition over and over again, till they have dwindled down to the size of ordinary raiyati holdings. As regards them, further partition is obviously undesirable. He has also omitted to notice the fact that though the number of such estates is large, yet in importance and area they form, in the aggregrate, but a very small fraction of all the estates in Bengal.

"Taking the average revenue of estates that will be excluded from partition at Rs. 10, which is higher than the truth, and their total number, 70,000, which is also above the true figure, the total revenue of these estates will be seven lakhs of rupees, the total revenue of permanently-settled and temporarily-

settled estates in Bengal being 350 lakhs. Now the relative amounts of their revenue represent roughly the relative value and importance of estates as to area and rent. As the revenue of estates that will be excluded from partition under this Bill forms only one-fiftieth part of the entire revenue, it will be seen that the estates excluded from partition form really only two per cent., at the outside, of the entire area of the Province, and as I have before said, this two per cent. consists of estates which have already been partitioned over over again.

"Then the Hon'ble Member has mentioned another point, namely, that it is only in Bengal that a limit has been proposed, and that such a provision is hard upon zamindars and raiyats. I do not know what the authority of the Hon'ble Member may be for this statement; but as far as I can find from an examination of the law, the statement is incorrect. In Madras the limit of partition is now what it was here at the time of the permanent settlement and shortly after. It is only on the application of all the proprietors, or when a portion of the property has been alienated or sold, that proprietors can apply for partition at all. In Bombay, according to section 114 of the Land Revenue Regulation, *talookdaree* and *koti* estates cannot be partitioned unless one-half of the proprietors apply and the revenue paid by them exceeds half the entire revenue of the estate. In the Punjab no partition is allowed except with the express consent of the Financial Commissioner, who may impose any conditions he pleases before giving his consent. Therefore I think it will be admitted that the facts adduced by the Hon'ble Member in favour of the particular limit which he proposes do not support his proposal. I may be wrong about the state of the law in other places, but the point is immaterial. Each province must legislate for its own requirements. I think I have shown that it is desirable to impose a limit on partitions and that we have gone to the extreme lengths in reducing the limit originally proposed. I therefore oppose the amendment."

The Hon'ble BABU KALI CHARAN BANERJEE said:—"There was an observation made by the Hon'ble Member in charge of the Bill, which goes very far to support the amendment that has been moved. The Hon'ble Member was pleased to admit that the difference between section 11 as it stands in the Bill and as it is proposed to be amended by my hon'ble friend, is very slight. That admission, I submit, should have its due weight in our consideration

[*Babu Kali Charan Banerjee.*]

of the amendment before us. The Bill has climbed down as we have seen, from Rs. 100 to Rs. 20 and again from Rs. 20 to Rs. 10, and the question is, whether there is any serious reason why the Bill should not climb down, yet again from Rs. 10 to Rs. 5. As far as the view of the Hon'ble Member in charge of the Bill is concerned, we have it on his own authority that the difference between Rs. 10 and Rs. 5 is very slight. Let us go a little deeper, and inquire into the principle on which this process of climbing down has gone on, for there must be a principle underlying what has been described as the principle of the Bill. The principle of the Bill is that it is desirable to raise the limit of partition. But there must be a principle on which this principle should be given effect to. What is that principle? As far as the debate on the question at this meeting has gone, the only principle to which reference has been made is the convenience of the Government, and we have been told that it is ungenerous to ask for a further concession, when the Government has already been generous enough to climb down from Rs. 100 to Rs. 10. But surely in asking for a further reduction of the limit from Rs. 10 to Rs. 5, we do not lay ourselves open to anything like the charge of being ungenerous, for it is never ungenerous to ask of the party justly credited with generosity to be a little more generous. We have not been told what material difference it would make, as far as the convenience of the Government was concerned, if the amendment were to be adopted; on the contrary, as I have said, the Hon'ble Member in charge of the Bill admits that the difference between the limits is very slight, and so we may take it that there will be very little difference on the score of convenience between them. Indeed the Bill itself allows the creation of estates paying an annual revenue of a little over Rs. 5. When the creation of such estates is recognised by the Bill, it may be taken to be nothing so disastrous to the convenience of the Government as to stand in the way of the amendment being adopted. As far as I can understand, an arbitrary limit has been introduced into the Bill, and one arbitrary limit is probably as good as another, when it is admitted that the difference between the two is very slight. On this ground I would submit, having regard to the observation of the Hon'ble Member in charge of the Bill that the difference between the motion and the amendment is very slight, that the convenience of the Government should not be unduly pressed so as to disallow the amendment."

The Motion was put and negatived.

[*Babu Norendra Nath Sen; Mr. Finucane.*]

The Hon'ble BABU NORENDRA NATH SEN also moved that in section 30, sub-section (*3*), the word 'records' be substituted for the word 'papers.'

He said:—"The amendment which I now propose is merely a verbal one. I submit that the proper word to be used in this sub-section is 'records' and not 'papers.' The applicability of the word 'papers' to application here referred to does not sound well. 'Papers' may be relevant to an application or a case. So if the word 'applicable' is retained, I would suggest the substitution of the word 'records' for 'papers.'"

The Hon'ble MR. FINUCANE said:—"The Select Committee considered this question, and it was thought by them that the word 'papers' is more suitable than 'records.' In sections 48 and 49 certain measurement 'papers' are referred to, and are distinguished from 'records' of assets mentioned in other sections, and as it is intended that the whole of the *nutthee* should be admissible, it was held that the word 'papers' is most suitable. It is a mere matter of drafting, and experts consider the word 'papers' is better than records. I therefore oppose the amendment."

The Motion was put and negatived.

The Hon'ble BABU NORENDRA NATH SEN also moved that Chapter VI (sections 44 to 50) be struck out.

He said:—"In moving that the whole Chapter be struck out, I may be considered as making a large order. The Chapter provides for the preparation of a record of rights in the course of a partition. I move that it be omitted on the ground that it will not conduce to the good either of landlords or tenants. While the record of rights will not be binding upon either of them, the preparation of such record will unnecessarily lead to delay and harassment and expense, and it will also create bad blood between landlords and tenants, ending in protracted litigation. It will thwart the very object of the Bill, which is to simplify, cheapen and shorten the partition procedure. The chapter does not appear to me at all an improvement upon the existing Act. The High Court—than which there is no greater authority—recommends the omission of this Chapter, as would appear from its letter to the Secretary to the Government of Bengal in the Revenue Department of the 10th July, 1896."

[*Mr. Finucane; Babu Norendra Nath Sen.*]

The Hon'ble MR. FINUCANE also moved that the word 'collectively' in clause (*c*) of section 50 be struck out. He said :—"The word is inappropriate there."

The Motion was put and agreed to.

The Hon'ble BABU NORENDRA NATH SEN moved that in section 60 the words 'unless he shows sufficient cause for such failure,' be inserted after the word 'shall.'

He said:—"I hope to have the sympathy of everybody who has had any experience of the working of our law courts. Your Honour knows how sometimes decrees are obtained without service of process upon defendants. When you debar a party altogether from the right of taking any objection hereafter to partition proceedings on his failure to attend upon a given day, it is quite fair and reasonable that the words I propose should be inserted after the word 'shall.' It may be said that these words do not occur in the present Act, but I submit that that is no reason why the words I propose should not be inserted when the Act is being amended; for on such an occasion it is important that the opportunity should be taken to remedy any defect we may find in it."

The Hon'ble MR. FINUCANE said:—"The wording of this section is in accordance with the existing law. The matter, however, seems to me to be of no importance. I have no objection to yield to the wish of the Hon'ble Member on this point."

The Motion was put and agreed to.

The Hon'ble BABU NORENDRA NATH SEN also moved that in section 99 the words 'or has created any other encumbrance thereon' be inserted after the words 'or on lease,' and the words 'tenure, lease or encumbrance' be substituted for the words 'tenure or lease.'

He said :—"Section 99 runs as follows :—

'If any proprietor of an estate held in common tenancy and brought under partition in accordance with this Act, has given his share or a portion thereof in *patni* or other tenure or

[*Babu Norendra Nath Sen; Babu Surendranath Banerjee; Mr. Finucane.*]

on lease, such tenure or lease shall hold good as regards the lands finally allotted to the share of such proprietor, and only to such lands.'

"It is very necessary that the additional words I suggest should be inserted. I see that one public body, the Bhagalpur Landholders' Association, have suggested the use of the word 'mortgage.' My motion is quite in accord with the ruling of the Privy Council in Byjenath Lall *vs.* Ramoodeen Chowdhry (1874) L. R. I. A. 166; 21 W. R. 233, in which it was held that persons who take any security from one co-sharer, do so subject to the rights of the others to enforce a partition, and that a mortgagee who takes such a security in the share of one co-sharer, who has no privity of contract with the other co-sharers, would have no recourse against the lands allotted to such co-sharers, but must pursue his remedy against the lands allotted to the mortgagor."

The Motion was put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE moved that in section 117 the words 'the Collector' be inserted before the words 'the Commissioner.' He said:—"Section 117 runs as follows:—

'The Commissioner and the Board respectively may pass such orders as they think fit in respect of the payment of the costs of any appeal which is made to them respectively under this Act.'

"Why not the Collector? I think the Collector ought to have the same power."

The Hon'ble MR. FINUCANE said:—"I accept this amendment. The wording of the section is according to the present Act, but there is no objection to the amendment."

The Motion was put and agreed to.

The Hon'ble Mr. Finucane moved that the Bill, as settled in Council, be passed.

The Motion was put and agreed to.

[*Mr. Grimley; Babu Surendranath Banerjee.*]

CHOTA NAGPUR TENANCY BILL.

The Hon'ble MR. GRIMLEY moved that the Report of the Select Committee on the Bill to regulate the enhancement of rents, the commutation of predial conditions or services, and the registration and resumption of intermediate tenures, in parts of Chota Nagpur, be taken into consideration, and that the clauses of the Bill be considered in the form recommended by the Select Committee.

He said:—"I have on several occasions explained the necessity for this measure, and as I have previously described the provisions of the Bill, it is not necessary for me to take up the time of the Council in going over the same ground again. I have only to observe that notice of the motions on the agenda was not given within the prescribed time, but I waive my right to make any objection on that ground."

The Motion was put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I have to make my acknowledgments to the Hon'ble Member in Charge of the Bill for permitting me to move my amendments, although the limit of time prescribed by the rules for sending in notice of amendments had expired. My first amendment runs thus:—

That for the words 'an appeal from any order of a Revenue-officer under this Chapter' in section 8, sub-section (*1*), the following be substituted, namely:—

'The decision of every Revenue-officer in every proceeding under this Chapter shall have the force of a decree, and an appeal from such decision.'

"I think it would be more convenient if I were to read the section as it is proposed to be modified by the first and the two subsequent amendments, which, at the suggestion of the Hon'ble Member in charge of the Bill, I will take together. It will then run:—

'The decision of every Revenue-officer in every proceeding under this Chapter shall have the force of a decree, and an appeal from such decision shall lie to the Deputy Commissioner, or, if the Revenue-officer is himself the Deputy Commissioner, then to the Judicial Commissioner of the Division.

[*Babu Surendranath Banerjee.*]

'When an appeal has been disposed of by the Deputy Commissioner under sub-section (*1*), an appeal from his order shall lie to the Judicial Commissioner.

'The provisions of the Code of Civil Procedure relating to appeals shall, as nearly as may be, apply to all appeals under sub-section (*1*) or sub-section (*2*).

'Where the Judicial Commissioner concurs with the Deputy Commissioner, the order shall be final, but in other cases an appeal shall lie to the High Court from the order of the Judicial Commissioner.'

"I object to the word 'order' in the second line. An appeal against 'an order' can only lie under the provisions of Chapter 43 of the Code of Civil Procedure. Chapters 41 and 42 provide for appeals against decrees, and not against 'orders,' but you put into requisition the provisions of Chapters 41 and 42; the provisions of Chapter 43 are not applicable; and therefore the word to be used is 'decree' and not 'order.' Further, I would call the attention of the Council to section 107 of the Bengal Tenancy Act which says:—'In all proceedings for the settlement of rents under this Chapter and in all proceedings under the last foregoing section, the Revenue-officer shall, subject to rules made by the Local Government under this Act, adopt the procedure laid down in the Code of Civil Procedure for the trial of suits, and his decision in every such proceeding shall have the force of a decree.' I desire to substitute the concluding words of this section for the words in the opening lines of sub-section (*1*) of section 8. This and the subsequent amendments involve a principle of a very important character. The Bill provides for the settlement of rent disputes by the Executive Officers of the Government. I desire to relieve the Executive Officers of Government of this responsibility, and vest it in Judicial Officers. Difficult and complicated considerations of right, status, &c., will come up for disposal, and it would be an advantage if trained Judges were invested with the responsibility of dealing with them. Then there is another point to be considered. The Commissioner of the Division who has to hear appeals will in certain cases be personally interested, as for instance in connection with cases relating to estates under the Court of Wards and encumbered estates; so that in regard to this class of cases he will constitute himself both plaintiff and Judge. That would be in violation of one of the most fundamental principles of justice, and ought not to receive the sanction of this Council. In this connection I would call the attention of the Council to some observations

made at a public meeting held at Ranchi to consider this Bill. The public meeting says:—

'The power to hear appeals should be vested in the *District Judge* or *Judicial Commissioner* instead of in the *Divisional Commissioner*. In the *Bengal Tenancy Act* there is no provision for an appeal to the *Commissioner* in such matters, and there seems to be no special reason why there should be a departure from the ordinary procedure. The fact of the *Divisional Commissioner* going out on tour for some months in the year, and most of his time being taken up by executive and office work, will cause hardship and inconvenience to suitors. Moreover, the *Commissioner* exercises general supervision and control over the management of the wards' and encumbered estates No important proceeding is instituted on behalf of these estates without his previous sanction. In many proceedings under section 7 the manager of the wards' and encumbered estates will have to figure as the applicant or the opposite party. It is obviously undesirable that the *Commissioner* should have any appellate powers in such cases.'

"The principle here laid down as a matter of course applies to the Board of Revenue also, and therefore the appeal from the Judicial Commissioner ought to be to the High Court.

"These are my reasons for suggesting these amendments."

The Hon'ble MR. GRIMLEY said:—"The first three amendments are interdependent, the second follows from the first, and the third from the second, and the object of all three is to convert what should be properly treated as executive or revenue proceedings into judicial proceedings.

"Under the existing law, Act I of 1879—a distinction is maintained between revenue proceedings and suits, appeals in the former being heard by Revenue-officers, and in the latter by Judicial officers. Assessment cases, commutation cases, registration and resumption proceedings are treated as revenue matters, and an appeal lies to the Commissioner under section 135, while the Commissioner and the Board of Revenue can exercise powers of revision under section 136. I may also point out that under section 40 of the Bengal Tenancy Act commutation questions are treated as revenue proceedings, and are appealable in the same way. The proposed amendments, therefore, introduce a principle, which is quite contrary not only to the existing law prevailing in Chota Nagpur, but is also not in harmony with the Bengal Tenancy Act prevailing in other parts of Bengal. As regards the proposal to introduce the High Court into the proceedings, I may say at once that this is untenable. The High Court

[*Mr. Grimley; Babu Surendranath Banerjee; the President.*]

derives its jurisdiction from an Act of Parliament and Letters Patent, and section 42 of the Indian Councils' Act prevents a local Council from making laws which would affect an Act of Parliament. The third amendment, which proposes to confer jurisdiction on the High Court is, therefore, *ultra vires* of this Council. There is, however, another and weightier reason why the High Court should be kept out of the proceedings. The landholder and raiyats of Chota Nagpur are far too poor to indulge in the luxury of an appeal to the High Court, and the cost of such an appeal would be prohibitive in the majority of cases. Besides the decision of commutation cases involves a knowledge of local customs, and a habit of interpreting them which Revenue-officers on the spot are more likely to possess than a distant tribunal like the High Court. With this explanation, the Hon'ble Member may, perhaps, see fit to withdraw his first three amendments. As regards the fourth, I have no particular objection to it."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Having regard to the difficulties which have been pointed out by the Hon'ble Member in charge of the Bill, I desire to withdraw this amendment, as well as the two following amendments, which stand thus:—

That the words 'Judicial Commissioner' be substituted for the words 'Commissioner of the Division' and 'Commissioner' wherever they occur in section 8.

Also that the words 'High Court' be substituted for the words 'Board of Revenue' in section 8, sub-section (*4*)."

The Hon'ble Babu SURENDRANATH BANERJEE also moved that section 8 sub-section (*5*), be altered to run as follows:—

'(5) Every appeal under this section must be presented within three months from the date of the order appealed against.'

The Hon'ble MR. GRIMLEY said:—"I am prepared to accept this amendment."

The Hon'ble THE PRESIDENT said:—"With regard to this amendment I should prefer that it should be considered by the Council. Personally I shall object to increase the term for subsequent appeals. It is exceedingly desirable

that cases of this kind should be settled and settled finally as quickly as possible, especially when the case arises from proceedings instituted under the sanction of the Government for commutation, whether both parties desire it or not. There are cases in which breaches of the peace are to be apprehended, and it is especially desirable that in such instances the whole matter should be settled without avoidable delay. For this reason, among others, I should myself have been prepared to oppose the three amendments which have just been withdrawn. This Bill provides for a period of three months for first appeals and one month for subsequent appeals, which I think is amply sufficient. I should prefer therefore to take the vote of the Council on the amendment now before them. I have now explained to the Council my reason for taking this course, and if the Hon'ble Member wishes to speak in support of the amendment, it is open to him to do so."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I desire to press this amendment, especially having regard to the statement which has been made by the Hon'ble Member in charge of the Bill. Mr. Forbes, the Commissioner of the Division, says that communications between the different parts of the country are difficult, the distances are great, and the head-quarters of the Board of Revenue are in Calcutta; and where there are such difficulties, three months are allowed for an appeal to be made to the Commissioner at the head-quarters of the Division. Surely under the circumstances to allow only one month when the appeal has to be made to the Board of Revenue in Calcutta is manifestly insufficient."

The Hon'ble MR. FINUCANE said:—"In the original Bill, as far as I remember, the limitation of time in regard to appeals, both original appeals to the Deputy Commissioner and second appeals to the Commissioner of the Division, was one month in every case. We considered the matter in Select Committee, and came to the conclusion that in cases of appeal from the Revenue Officer to the Deputy Commissioner three months ought to be given, because people in the mufassal are slow to learn what orders have been passed in the Court of first instance. But when they go before the Deputy Commissioner or the Commissioner of the Division with appeals, they have Mukhtars or pleaders to represent them, and know precisely what order has been passed. Therefore, once they come to know what the order is, if they intend to appeal, the sooner

they make their application the better, and there is no risk of injustice in such cases. I am therefore inclined to differ from the Hon'ble Member in charge of the Bill, and think that the Council ought to accept the conclusion to which the Select Committee came."

The Motion being put, the Council divided:—

Ayes—6.	*Noes—10.*
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
The Hon'ble Babu Kali Charan Banerjee.	The Hon'ble Mr. Wallis.
The Hon'ble Babu Saligram Singh.	The Hon'ble Nawab Syed Ameer Hossein.
The Hon'ble Babu Norendra Nath Sen.	The Hon'ble Mr. Toynbee.
The Hon'ble Mr. Turner.	The Hon'ble Mr. Pratt.
The Hon'ble Mr. Grimley.	The Hon'ble Rai Durga Gati Banerjea Bahadur.
	The Hon'ble Mr. Glass.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Finucane.
	The Hon'ble Sir Charles Paul.

So the Motion was lost.

The Hon'ble MR. GRIMLEY moved that the Bill as amended be passed.

The Hon'ble THE PRESIDENT said:—"At this late hour I will only detain the Council for a minute or two. The circumstances under which I have to deal with this Bill are a little peculiar. Some of the Hon'ble Members of the Council will perhaps be aware that I myself held the appointment of Commissioner of the Chota Nagpur Division from 1885 to 1889, when I was succeeded by Mr. Grimley. And in the Statement of Objects and Reasons appended to the Bill it is mentioned that there were troubles there between 1887 and 1889, and it was remarked that there was considerable correspondence between the Commissioner and the higher authorities on the subject of those troubles. I myself was the Commissioner in question. The relations between the Kols of Lohardaga and the zamindars had been far from satisfactory for some little time, but matters were not brought to a head. But in 1887, I think it was, when I was returning from a long cold weather tour, I found on approaching my head-quarters a considerable state of alarm had sprung up; that the Kols in certain parts had begun to defy the authority of the courts, that they paid no

attention to process, and gave other indications of being in a state in which they might soon commit mischief. Measures were quickly and quietly taken which had the effect of overawing them and of restoring a sort of superficial peace, and I am glad to say that no serious crime of any kind was committed in the meantime. But, of course, that was not a satisfactory solution of the difficulty, and it was necessary to look for means whereby a more healthy condition of affairs may be established. I found that one of the most important of the difficulties from which we were suffering was this very one which is now before us. I found that zamindars were making excessive demands and the Kols were inclined either to give too little, or in some cases to give nothing at all. They had advisers, and those advisers were accustomed to a state of things in which money rents alone were paid, and they could not understand the liability of these men to pay rent in kind and in services. Under the law as it now stands the right of the landlord to receive rents in kind or in services may be commuted on the application of either party, but not otherwise. Our great difficulty was that, although the trouble existed, and although excessive claims on the one part and the resolve to resist just claims on the other existed and caused irritation, it was not in the power of the executive officers to do anything which would enable them to go to the root of the matter since neither party would seek commutation. I pressed, therefore, for an alteration in the law to enable the administration to step in and for sufficient reason to direct that such commutation, the amount of which was the cause of the trouble, should be made. The present Bill is the outcome of that correspondence, and it appears to me fairly to meet the wants of the local officers. If there is any fault in it, to me, personally, it seems to be almost too cautious. However, it is not perhaps open to me to make that objection, as it is a Bill which arose simply out of my own individual experience, but I commend the Bill to the Council as one likely to conduce very greatly to the peace and well-being of the aboriginal inhabitants as well as to the real interest of the zamindars."

The Motion was put and agreed to.

The Council adjourned *sine die*.

CALCUTTA;
The 25th October, 1897.

F. G. WIGLEY,
Offg. Assistant Secretary to the Government of Bengal,
Legislative Department.

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